

April 2, 1997

Introduced By:

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RC:ac:Bond  
clerk 4/2/97

Proposed No.:

97-177

ORDINANCE NO. **12686**

AN ORDINANCE relating to financing of a professional baseball stadium and related parking facilities; providing for the issuance and sale of limited tax general obligation bonds of the county in the aggregate principal amount of \$336,000,000 pursuant to Ordinances 12000 and 12593; providing for the dates, forms, terms, maturities, covenants and redemption provisions of said bonds; providing for the sale of the bonds in multiple series and the disposition of the proceeds of sale; establishing funds for the receipt, escrow and expenditure of bond proceeds and for the payment of the bonds; providing for the remarketing of a portion of the bonds; providing for the annual levy of taxes to pay the principal thereof and interest thereon; pledging certain taxes and revenues as additional security for the bonds; and, approving an amendment to the Agreement between the county and the Public Facilities District and certain other documents and agreements related to the bonds.

PREAMBLE:

By Ordinance No. 12000 and Ordinance No. 12593, the county has previously determined to provide financing to the Washington State Major League Baseball Stadium Public Facilities District (the "PFD") for the construction of a major league baseball stadium and related parking facilities in accordance with Chapter 1, Laws of 1995, 3rd Sp. Sess. (the "Act"). Pursuant to Ordinance No. 12213 and Ordinance No. 12593, the county has previously issued bond anticipation notes and otherwise provided interim financing to the PFD for such purposes.

On February 24, 1997, the Honorable Judge Kathleen Learned, King County Superior Court, held in a declaratory judgment action initiated by the county, that, among other things, Ordinance No. 12593 is not subject to initiative or referendum, the baseball stadium lease between the PFD and The Baseball

Club of Seattle, L.P. (the "Club") does not represent an unconstitutional gift of public funds or lending of public credit, and the local sales tax and state sales tax credit authorized under the Act are valid taxes and credits. The ruling of Judge Learned, which affirmed the county's authority to issue and sell bonds pursuant to Ordinance No. 12593 (the "Superior Court Ruling"), is currently on appeal.

This ordinance supplements Ordinance No. 12000 and Ordinance No. 12593 by providing the dates, forms, terms, maturities, covenants and redemption provisions of the bonds authorized therein. The proceeds of such bonds shall not be applied for such purposes until the county has received an opinion of bond counsel to the effect that the State Supreme Court has affirmed the Superior Court Ruling in all respects material to the validity of the Bonds, the sources of their repayment and the use of their proceeds or that any matters not affirmed by the State Supreme Court are not material to such issues. The county has received an offer from Smith Barney Inc., on behalf of itself and certain other underwriters, and from Bank of America National Trust and Savings Association doing business as Seafirst Bank, to buy the respective series of the bonds of the county as provided for herein.

The county has determined that the amounts projected to be available from revenues and taxes authorized under the Act and from the Club (with respect to the Series A-2 Bonds and Series C Bonds) will be adequate to meet the required payments of principal and interest on the bonds authorized herein as such bonds become due and payable without recourse to the current expense fund. The county has also received assurances from the rating agencies rating its bonds that at the time of their issuance the ratings on the bonds authorized herein will be the same as the rating on the county's outstanding limited tax general obligation bonds. In addition, the county executive has heretofore made certifications to the Department of Revenue in accordance with Section 201(4) of the Act and Section 4.D of Ordinance No. 12000.

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BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

## ARTICLE I

### DEFINITIONS; INTERPRETATION

SECTION 1.01.      Definitions. The following words and terms as used in this ordinance shall have the following meanings for all purposes of this ordinance, unless some other meaning is plainly intended.

"Alternate Liquidity and Credit Facility" means any letter of credit, line of credit, surety bond, standby bond purchase agreement or other security or liquidity device provided in accordance with Section 2.07 to provide liquidity and/or credit support for the Bonds.

"Amendment No. 5" means Amendment No. 5 to the Agreement between King County and the Washington State Major League Baseball Public Stadium Facilities District (Financing Agreement).



1 "Arbitrage and Tax Certification" means the certificate executed pursuant to the  
2 Code by the Finance director pertaining to, among other things, the use of proceeds of the  
3 Bonds and the calculation and payment of any Rebate Amount with respect to the Bonds.

4 "Authorized Denominations" means (a) with respect to any Fixed Rate Bonds, five  
5 thousand dollars (\$5,000) and any integral multiples thereof and (b) with respect to any  
6 Variable Rate Bonds, one hundred thousand dollars (\$100,000) or any integral multiple of  
7 five thousand dollars (\$5,000) in excess of one hundred thousand dollars (\$100,000).

8 "Bank" means Bank of America National Trust and Savings Association doing  
9 business as Seafirst Bank, as the provider of the initial Liquidity and Credit Facility, and its  
10 successor or the provider of any Alternate Liquidity and Credit Facility then in effect.

11 "Bank Bondholder" means the Registered Owner of any Bank Bond.

12 "Bank Bond" means any Series D Bond which is purchased from the proceeds of a  
13 draw on the Liquidity and Credit Facility for which no remarketing proceeds have been  
14 received to reimburse the Bank for draws under the Liquidity and Credit Facility and  
15 registered in the name of the Bank Bondholder. Such Series D Bond shall cease to be a  
16 "Bank Bond" when it is remarketed in accordance with the terms of this Ordinance.

17 "Bank Interest Rate" means, with respect to Bank Bonds, the "Bank Interest Rate"  
18 as defined in the Liquidity and Credit Facility or the Reimbursement Agreement.

19 "Bank Purchase Account" means the account of that name in the Payment Fund.

20 "Blanket Issuer Letter of Representations" means the letter to DTC heretofore  
21 executed by the county.

22 "Bond Counsel" means a lawyer or firm of lawyers, selected by the county, of  
23 nationally recognized standing in matters pertaining to bonds issued by states and their  
24 political subdivisions.

25 "Bond Fund" means the "Limited Tax General Obligation Bond Redemption Fund"  
26 heretofore established by the county.

1 "Bond Register" means the registration books maintained by the Bond Registrar for  
2 purposes of identifying ownership of the Bonds.

3 "Bond Registrar" means the fiscal agency of the State of Washington in either  
4 Seattle, Washington, or New York, New York, for the purposes of registering and  
5 authenticating the Bonds, maintaining the Bond Register, effecting the transfer of ownership  
6 of the Bonds and paying interest on and principal (and any premium pursuant to call on) of  
7 the Bonds.

8 "Bonds" means all or a portion of the Series A Bonds, the Series B Bonds, the  
9 Series C Bonds and the Series D Bonds.

10 "Business Day" means a day other than a Saturday or a Sunday on which the Bank  
11 and banks or trust companies in Seattle, Washington, and New York, New York, are not  
12 authorized or required to remain closed and on which the New York Stock Exchange is not  
13 closed.

14 "Car Rental Taxes" means a tax of two percent of the selling price, in the case of a  
15 sales tax, or rental value of the vehicle, in the case of a use tax, on retail car rentals levied  
16 pursuant to Section 201 of the Act, RCW 82.14.360(2) and Section 4.B of Ordinance  
17 12000.

18 "Closing" means the delivery of a series of the Bonds to, and payment of the  
19 purchase price therefor by, the initial purchasers of said series of the Bonds.

20 "Code" means the Internal Revenue Code of 1986, as amended, together with  
21 corresponding and applicable final, temporary or proposed regulations and revenue rulings  
22 issued with respect thereto by the United States Treasury Department or the Internal  
23 Revenue Service.

24 "Commission" means the Securities and Exchange Commission.

25 "County Sales Taxes" means a sales tax of 0.017 percent of the selling price, in the  
26 case of a sales tax, or value of the article used, in the case of a use tax, which is deducted

1 from the amount otherwise required to be paid to the State pursuant to Section 101 of the  
2 Act, RCW 82.14.0485 and Section 3 of Ordinance 12000.

3 "DTC" means The Depository Trust Company, New York, New York.

4 "Escrow Accounts" means the special trust or escrow accounts held by the escrow  
5 agent of the PFD in accordance with Section 4.05 and Amendment No. 5.

6 "Extraordinary Mandatory Redemption Date" has the meaning assigned to that term  
7 in Section 3.03.

8 "Finance director" means the finance director of the county or his or her designee.

9 "Fixed Rates" means the fixed interest rates on the Series A Bonds, Series B Bonds  
10 and Series C Bonds established pursuant to Section 2.01 and the fixed interest rates to  
11 maturity on the respective maturities of the Series D Bonds established pursuant to  
12 Section 2.03(d).

13 "Fixed Rate Bonds" means Bonds bearing interest at Fixed Rates.

14 "Food and Beverage Taxes" means a tax of five-tenths of one percent of the selling  
15 price in the case of a sales tax, or value of the article used, in the case of a use tax, on retail  
16 sales or use of food and beverages sold in restaurants, taverns and bars levied pursuant to  
17 Section 201 of the Act, RCW 82.14.360(1) and Section 4.A. of Ordinance 12000.

18 "Government Obligations" means any of the following securities at the time legal for  
19 investment of the county's funds and for the defeasance of the county's obligations, if and to  
20 the extent the same are non-callable prior to the date on which the proceeds of such  
21 securities are to be used hereunder and are not subject to redemption at the option of the  
22 owners: direct obligations of, or obligations the principal of and interest on which are  
23 unconditionally guaranteed by, the United States of America, including obligations issued or  
24 held in book-entry form on the books of the Department of the Treasury of the United  
25 States of America and including U.S. Treasury STRIPS and REFCORP STRIPS (stripped  
26 by the Federal Reserve Bank of New York).

1 "Information Services" means Financial Information, Inc.'s "Daily Bond Service", 30  
2 Montgomery Street, 10th Floor, Jersey County, New Jersey 07302, Attention: Editor;  
3 Kenney Information Services' "Called Bond Service", 55 Broad Street, 28th Floor, New  
4 York, New York 10004; Moody's "Municipal and Government", 99 Church Street, New  
5 York, New York 10007, Attention: Municipal New Reports; and S&P's "Called Bond  
6 Record", 25 Broadway, 3rd Floor, New York, New York 10004; or, in accordance with  
7 any then-current guidelines of the Securities and Exchange Commission, such other  
8 addresses and/or such other services, if any, providing information with respect to called  
9 bonds, as the county may designate in a certificate of the county delivered to the Bond  
10 Registrar.

11 "Interest Accrual Date" means (a) with respect to any period during which Series D  
12 Bonds bear interest at a Variable Rate, the first day thereof and thereafter the first  
13 Wednesday of each calendar month during such period, (b) with respect to the period  
14 during which Bonds bear interest at Fixed Rates, the first day thereof and thereafter each  
15 Interest Payment Date in respect thereof, other than the last such Interest Payment Date.

16 "Interest Payment Date" means (a) with respect to any period during which the  
17 Series D Bonds bear interest at a Variable Rate, the first Wednesday of each calendar  
18 month, or if such first Wednesday is not a Business Day, the next succeeding Business Day,  
19 and (b) with respect to the period during which the Bonds bear interest at Fixed Rates, each  
20 June 1 and December 1, and (c) with respect to each such period, the day next succeeding  
21 the last day thereof.

22 "Liquidity and Credit Facility" means that certain irrevocable direct-pay letter of  
23 credit, in substantially the form-attached to Exhibit E hereto, delivered by the Bank with  
24 respect to the Series D Bonds, and any extension thereof, and any modification thereof that  
25 does not result in a reduction, suspension or withdrawal of the ratings on the Series D  
26 Bonds, as evidenced by written confirmation from each rating agency then maintaining a  
27 rating on the Series D Bonds. If an Alternate Liquidity and Credit Facility is delivered, the

1 term "Liquidity and Credit Facility" shall refer to such Alternate Liquidity and Credit  
2 Facility at the time in effect.

3 "Maximum Rate" has the meaning assigned to that term in Section 2.03.

4 "Moody's" means Moody's Investors Service, Inc., or its successor.

5 "MSRB" means the Municipal Securities Rulemaking Board or any successor to its  
6 functions.

7 "NRMSIR" means a nationally recognized municipal securities information  
8 repository.

9 "Opinion of Bond Counsel" means an opinion of Bond Counsel addressed to the  
10 county to the effect that the action proposed to be taken is authorized or permitted by  
11 applicable law and this Ordinance and will not adversely affect the exclusion from gross  
12 income for federal income tax purposes of interest on the Bonds, if applicable.

13 "Ordinance" means this ordinance, as it may be amended from time to time.

14 "Outstanding," when used with respect to Bonds, means as of the date of  
15 determination all Bonds theretofore authenticated and delivered under this Ordinance,  
16 except:

- 17 (i) Bonds theretofore canceled or delivered to the Bond Registrar for  
18 cancellation;
- 19 (ii) Bonds defeased in accordance with Section 6.04;
- 20 (iii) Bonds in exchange for or in lieu of which other Bonds have been  
21 authenticated and delivered pursuant to this Ordinance; and
- 22 (iv) Undelivered Bonds.

23 "Payment Fund" means "King County Variable Rate Bond Payment Fund, 1997,"  
24 created pursuant to the Tender and Paying Agent Agreement.

25 "Permitted Investments" means any securities at the time legal for investment of the  
26 county's funds.

1 "Purchase Contract" means the contract or contracts in the form attached as Exhibit  
2 F hereto between the county and Smith Barney Inc., as representative of the underwriters,  
3 for the purchase and sale of the Series B Bonds, Series C Bonds and Series D Bonds, dated  
4 April 2<sup>nd</sup>, 1997.

5 "Purchase Date" has the meaning assigned to that term in Section 2.05.

6 "Purchase Offer" means the contract in the form attached as Exhibit G hereto  
7 between the county and Bank of America National Trust and Savings Association doing  
8 business as Seafirst Bank for the purchase and sale of the Series A Bonds, dated April 2<sup>nd</sup>,  
9 1997.

10 "Purchase Price" means the price at which a Purchased Bond is to be purchased  
11 from the Registered Owner thereof pursuant to an optional or mandatory tender of that  
12 Bond hereunder.

13 "Purchased Bonds" has the meaning assigned to that term in Section 2.05.

14 "RCW" means the Revised Code of Washington.

15 "Rebate Amount" means the amount, if any, determined to be payable with respect  
16 to any of the Bonds by the county to the United States of America in accordance with  
17 Section 148(f) of the Code.

18 "Record Date" means (a) with respect to any Interest Payment Date in respect of  
19 any Series D Bonds bearing interest at a Variable Rate, the Business Day immediately  
20 preceding such Interest Payment Date, and (b) with respect to any Interest Payment Date in  
21 respect to any Bonds bearing interest at Fixed Rates, the May 15 or November 15  
22 immediately preceding such Interest Payment Date.

23 "Registered Owner" or "Registered Owners," when used with respect to any Bond,  
24 means the person or persons in whose name such Bond is registered in the Bond Register.

25 "Reimbursement Agreement" mean the agreement between the county and the Bank,  
26 if any, pursuant to which the Liquidity and Credit Facility or any Alternate Liquidity and  
27 Credit Facility is provided.

1 "Remarketing Account" means the account of that name in the Payment Fund.

2 "Remarketing Agent" means Smith Barney Inc. or any other entity identified in the  
3 remarketing agreement, as applicable, and any successor remarketing agent with respect to  
4 the Series D Bonds appointed in accordance with this Ordinance and the Remarketing  
5 Agreement.

6 "Remarketing Agreement" means the Remarketing Agreement with respect to the  
7 Series D Bonds, in substantially the form set forth in Exhibit B hereto, between the county  
8 and the Remarketing Agent, and any renewals, supplements, amendments, extensions or  
9 replacements thereof.

10 "Rule" means the Commission's Rule 15c2-12 adopted under the Securities and  
11 Exchange Act of 1934, as the same may be amended from time to time.

12 "S&P" means Standard & Poor's Ratings Services, a Division of The McGraw-Hill  
13 Companies, Inc., or its successor.

14 "Securities Depositories" means The Depository Trust Company, 711 Stewart  
15 Avenue, Garden City, New York 11530, FAX (516) 227-4039 or 4190; Midwest Securities  
16 Trust Company, Capital Structures-Call Notification, 440 South LaSalle Street, Chicago,  
17 Illinois 60605, FAX (312) 663-2343; Philadelphia Depository Trust Company,  
18 Reorganization Division, 1900 Market Street, Philadelphia, Pennsylvania 19303, Attention:  
19 Bond Department, Dex-(215) 496-5058; or, in accordance with any then-current guidelines  
20 of the Securities and Exchange Commission, such other addresses and/or such other  
21 securities depositories, if any, as the county may designate in a certificate of the county  
22 delivered to the Bond Registrar.

23 "Series A Bonds" means the Series A-1 Bonds and Series A-2 Bonds.

24 "Series A-1 Bonds" means the King County, Washington, Limited Tax General  
25 Obligation Bonds, 1997 Series A-1, in the aggregate principal amount of \$9,000,000.00  
26 issued pursuant to Section 2.01 hereof.

1 "Series A-2 Bonds" means the King County, Washington Limited Tax General  
2 Obligation Bonds, 1997 Series A-2 (Taxable) in the aggregate principal amount of  
3 \$1,000,000.00 issued pursuant to Section 2.01 hereof.

4 "Series B Bonds" means the King County, Washington, Limited Tax General  
5 Obligation Bonds, 1997 Series B, in the aggregate principal amount of \$ 151,000,000.00  
6 issued pursuant to Section 2.01 hereof.

7 "Series C Bonds" means the King County, Washington, Limited Tax General  
8 Obligation Bonds, 1997 Series C (Taxable), in the aggregate principal amount of  
9 \$25,000,000.00 issued pursuant to Section 2.01 hereof.

10 "Series D Bonds" means the King County, Washington, Limited Tax General  
11 Obligation Variable Rate Demand Bonds, 1997 Series D, in the aggregate principal amount  
12 of \$150,000,000.00 issued pursuant to Section 2.01 hereof.

13 "SID" means a state information depository for the State of Washington (if one is  
14 created).

15 "Stadium Admissions Taxes" means the taxes to be levied at the maximum rate  
16 pursuant to Section 203(3)(a) of the Act and RCW 36.38.010(a).

17 "State" means the State of Washington.

18 "State License Plate Receipts" means amounts received by the county from the sale  
19 of state license plates pursuant to Sections 102 and 103 of the Act and RCW 46.16.301 and  
20 RCW 46.16.313.

21 "State Lottery Receipts" means amounts received by the county from the state  
22 lottery pursuant to Section 105 of the Act and RCW 67.20.240.

23 "Tender and Paying Agent" means, initially, The Bank of New York, New York,  
24 New York, and any successor Tender and Paying Agent with respect to the Series D Bonds  
25 appointed in accordance herewith; and "Principal Office of the Tender and Paying Agent"  
26 and "Delivery Office of the Tender and Paying Agent" mean the office designated in Section  
27 2.10.



1 "Tender and Paying Agent Agreement" means the Tender and Paying Agent  
2 Agreement with respect to the Series D Bonds, in substantially the form set forth in Exhibit  
3 D hereto, among the county, the Bank and the Tender and Paying Agent and any renewals,  
4 supplements, amendments, extensions or replacements thereof.

5 "Undelivered Bonds" means any Series D Bond which constitutes an Undelivered  
6 Bond pursuant to the provisions of Section 2.04(c).

7 "Variable Rate" means the interest rate on the Series D Bonds established pursuant  
8 to Section 2.03(c).

9 "Variable Rate Bonds" means Series D Bonds prior to conversion of the interest rate  
10 thereon to Fixed Rates.

11 SECTION 1.02. Interpretation. In this Ordinance, unless the context  
12 otherwise requires:

13 (a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and  
14 any similar terms, refer to this Ordinance as a whole and not to any particular article,  
15 section, subdivision or clause hereof, and the term "hereafter" shall mean after, and the term  
16 "heretofore" shall mean before, the date of this Ordinance;

17 (b) Words of the masculine gender shall mean and include correlative  
18 words of the feminine and neuter genders and words importing the singular number shall  
19 mean and include the plural number and vice versa;

20 (c) Words importing persons shall include firms, associations,  
21 partnerships (including limited partnerships), trusts, corporations and other legal entities,  
22 including public bodies, as well as natural persons;

23 (d) Any headings preceding the text of the several articles and sections  
24 of this Ordinance, and any table of contents or marginal notes appended to copies hereof,  
25 shall be solely for convenience of reference and shall not constitute a part of this Ordinance,  
26 nor shall they affect its meaning, construction or effect;

1 (e) All references herein to "articles," "sections" and other subdivisions  
2 or clauses are to the corresponding articles, sections, subdivisions or clauses hereof;

3 (f) Whenever any consent or direction is required to be given by the  
4 county, such consent or direction shall be deemed given when given by the Finance director  
5 or his or her designee, and all references herein to the Finance director shall be deemed to  
6 include references to his or her designee;

7 (g) Unless clearly indicated otherwise, all references herein to times of  
8 day shall be deemed to be references to local time in New York, New York; and

9 (h) All references herein to the determination of interest rates on the  
10 Series D Bonds by the Remarketing Agent shall be deemed to be references to the  
11 determination of such rates in accordance with the procedures set forth in the Remarketing  
12 Agreement.

## 13 ARTICLE II

### 14 ISSUANCE, CONDITIONS AND TERMS OF BONDS

#### 15 SECTION 2.01. Authorization of Bonds.

16 Authorization and Description. To provide funds to the PFD necessary to acquire,  
17 construct, own, remodel, maintain, equip, repair and operate a baseball stadium in  
18 accordance with the Act and to provide the county with the costs of issuing and  
19 remarketing the Bonds, the county shall issue and sell: the Series A-1 Bonds in an aggregate  
20 principal amount of \$9,000,000.00, the Series B Bonds in the aggregate principal amount of  
21 \$151,000,000.00 and the Series D Bonds in the aggregate principal amount of  
22 \$150,000,000.00. To provide funds to the PFD necessary to acquire, construct, own,  
23 remodel, maintain, equip, repair and operate parking facilities related to the baseball stadium  
24 in accordance with the Act and to provide the county with the costs of issuing the Bonds,  
25 the county shall issue and sell the Series A-2 Bonds in the aggregate principal amount of  
26 \$1,000,000.00 and the Series C Bonds in the aggregate principal amount of  
27 \$25,000,000.00. The Series A Bonds, the Series B Bonds, the Series C Bonds and the

1 Series D Bonds shall be designated as "King County, Washington Limited Tax General  
2 Obligation Bonds" with applicable year and series designations and such other designations  
3 as are deemed desirable or convenient by the Finance director. Prior to conversion of  
4 interest on the Series D Bonds to Fixed Rates, the Series D Bonds will also be designated  
5 "Variable Rate Demand."

6 The Series A Bonds shall be dated April 14, 1997, shall mature in the years, on the  
7 dates and in the amounts set forth in the Purchase Offer and shall bear interest from the date  
8 thereof at the interest rates set forth in the Purchase Offer, payable in accordance therewith.

9 The Series B Bonds shall be dated April 1<sup>st</sup>, 1997, shall mature in the years, on the  
10 dates and in the amounts set forth in the Purchase Contract and shall bear interest from the  
11 date thereof at the interest rates set forth in the Purchase Contract, payable in accordance  
12 therewith.

13 The Series C Bonds shall be dated April 1<sup>st</sup>, 1997, shall mature in the years, on the  
14 dates and in the amounts set forth in the Purchase Contract and shall bear interest from the  
15 date thereof at the interest rates set forth in the Purchase Contract, payable in accordance  
16 therewith.

17 The Series D Bonds shall be dated the date of delivery thereof and shall mature in  
18 the year and in the amount set forth in the Purchase Contract, and shall bear interest from  
19 the date thereof at a Variable Rate established in accordance with Section 2.03(c), payable  
20 in accordance with Section 2.03(a), until converted to Fixed Rates in accordance with  
21 Section 2.03(d).

22 Interest shall be computed, in the case of Fixed Rate Bonds, on the basis of a 360-  
23 day year consisting of twelve (12) 30-day months, and in the case of Variable Rate Bonds,  
24 on the basis of a 365- or 366-day year, as appropriate, and the actual number of days  
25 elapsed.

1            SECTION 2.02.        Description of Bonds; Payment of Bonds. The Bonds shall  
2 be in fully registered form, shall be numbered and shall be issued in Authorized  
3 Denominations.

4            The Bonds shall each be in substantially the applicable forms set forth in Exhibit A  
5 attached hereto and incorporated herein, with appropriate or necessary insertions, omissions  
6 and variations as permitted or required hereby. Only such Bonds as shall bear thereon a  
7 Certificate of Authentication in the forms set forth in Exhibit A, manually executed by the  
8 Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this  
9 Ordinance. Such Certificates of Authentication shall be conclusive evidence that the Bonds  
10 so authenticated have been duly executed, authenticated, and delivered hereunder and are  
11 entitled to the benefits of this Ordinance.

12           The principal of the Bonds, upon maturity or redemption, shall be payable to the  
13 Registered Owner upon presentation and surrender of such Bonds in the case of Variable  
14 Rate Bonds at the Delivery Office of the Tender and Paying Agent, and in the case of Fixed  
15 Rate Bonds at the offices of the Bond Registrar. Subject to Section 2.16, interest on the  
16 Bonds shall be payable by check or draft mailed on each Interest Payment Date in the case  
17 of the Variable Rate Bonds by the Tender and Paying Agent, and in the case of Fixed Rate  
18 Bonds by the Bond Registrar, to the Registered Owners at the addresses shown on the  
19 Bond Register as of the Record Date, or by wire transfer on each Interest Payment Date to  
20 the bank account on file with the Bond Registrar to the Registered Owners of at least one  
21 million dollars (\$1,000,000) of aggregate principal amount of any series of Bonds.

22           Each Bond delivered under this Ordinance, upon transfer or in exchange for or in  
23 lieu of any other Bond, shall carry all the rights to interest accrued and unpaid and to accrue  
24 which were carried by such other Bond.

25           The Bond Registrar, the Tender and Paying Agent and the county may treat the  
26 Registered Owner of a Bond as the absolute owner thereof for all purposes, whether or not  
27 such Bond shall be overdue, and the Bond Registrar, the Tender and Paying Agent and the

1 county shall not be affected by any knowledge or notice to the contrary; and payment of the  
2 principal of, Purchase Price, premium, if any, and interest on such Bond shall be made only  
3 to such Registered Owner, which payments shall satisfy and discharge the liability of the  
4 county with respect to such Bond to the extent of the sum or sums so paid. All Bonds paid  
5 pursuant to the provisions of this Section 2.02 shall be cancelled by the Bond Registrar or  
6 the Tender and Paying Agent, as applicable.

7 Upon purchasing Bank Bonds, Bank Bondholders shall be entitled to all rights and  
8 privileges accorded to Registered Owners of Series D Bonds that are not Bank Bonds,  
9 except the right to payment from draws under the Liquidity and Credit Facility. Bank  
10 Bonds shall bear interest at the Bank Interest Rate, calculated and paid at the time and in  
11 the manner set forth in the Liquidity and Credit Facility or Reimbursement Agreement.

12 Anything herein to the contrary notwithstanding, principal of and interest on  
13 Variable Rate Bonds shall be payable solely from amounts paid under the Liquidity and  
14 Credit Facility, except during such time as the Variable Rate Bonds are Bank Bonds.

15 SECTION 2.03. Interest on the Series D Bonds. The Series D Bonds shall  
16 initially bear interest at a Variable Rate which shall not at any time exceed 12% per annum  
17 or such lesser amount as set forth in the Liquidity and Credit Facility (the "Maximum  
18 Rate").

19 (a) Payment of Interest. For the period during which Series D Bonds  
20 bear interest at a Variable Rate, interest on the Series D Bonds shall be payable on each  
21 Interest Payment Date for the period commencing on and including the immediately  
22 preceding Interest Accrual Date and ending on and including the Tuesday immediately  
23 preceding the Interest Payment Date (or, if sooner, the last day of the Variable Rate  
24 period). For the period during which the Series D Bonds bear interest at Fixed Rates,  
25 interest on the Series D Bonds shall be payable on each Interest Payment Date for the  
26 period commencing on the immediately preceding Interest Accrual Date and ending on the  
27 day immediately preceding such Interest Payment Date.

1 (b) Interest Rates. At any time all of the Series D Bonds that are not  
2 Bank Bonds shall bear interest either at a Variable Rate or all of the Series D Bonds shall  
3 bear interest at Fixed Rates; and all Series D Bonds that are Bank Bonds shall bear interest  
4 at the Bank Interest Rate. No Series D Bond, other than the Bank Bonds, shall bear  
5 interest at a Variable Rate in excess of the Maximum Rate.

6 (c) Variable Rate.

7 (i) Determination of Variable Rate. During the period which the  
8 Series D Bonds bear interest at a Variable Rate, the Remarketing Agent shall determine the  
9 Variable Rate on Tuesday of each week, or if such day is not a Business Day then on the  
10 next succeeding Business Day. The first Variable Rate for such period shall be determined  
11 on or prior to the Closing with respect to the Series D Bonds and shall apply to the period  
12 commencing on the first day of such Variable Rate period and ending on the next  
13 succeeding Tuesday. Thereafter, each Variable Rate for the Series D Bonds shall apply to  
14 the period commencing on Wednesday and ending on the next succeeding Tuesday, unless  
15 such period ends on a day other than a Tuesday, in which event the last Variable Rate for  
16 such period shall apply to the period commencing on Wednesday preceding the last day of  
17 such period and ending on the last day of such period.

18 The Variable Rate shall be a rate of interest per annum determined by the  
19 Remarketing Agent (based on an examination, among other things, of tax-exempt  
20 obligations comparable, in the judgment of the Remarketing Agent, to the Series D Bonds  
21 and known by the Remarketing Agent to have been priced or traded under then-prevailing  
22 market conditions) to be the minimum interest rate which, if borne by the Series D Bonds,  
23 would enable the Remarketing Agent to remarket the Series D Bonds on the effective date  
24 of such rate at a price (without regarding accrued interest) equal to the principal amount  
25 thereof. If the Remarketing Agent fails to establish a Variable Rate for any week, then the  
26 Variable Rate for such week shall be the same as the Variable Rate for the immediately  
27 preceding week if the Variable Rate for such preceding week was determined by the

1 Remarketing Agent. If the Variable Rate for the immediately preceding week was not  
2 determined by the Remarketing Agent or if the Variable Rate determined by the  
3 Remarketing Agent is held to be invalid or unenforceable by a court of law, then the interest  
4 rate for such week shall be determined by the Tender and Paying Agent and shall be equal  
5 to seventy percent (70%) of the rate on 30-day high grade unsecured commercial paper  
6 notes sold through dealers by major corporations as reported in *The Wall Street Journal* on  
7 the day such Variable Rate would otherwise be determined as provided herein.

8 (d) Fixed Rates.

9 (i) Determination of Fixed Rates. The Fixed Rates on the  
10 Series D Bonds shall be determined by the Remarketing Agent on a Business Day no later  
11 than seven (7) days prior to the effective date of such Fixed Rates. The Fixed Rates shall be  
12 the rates of interest per annum determined by the Remarketing Agent (based on an  
13 examination of, among other things, tax-exempt obligations comparable, in the judgment of  
14 the Remarketing Agent, to the Series D Bonds and known by the Remarketing Agent to  
15 have been priced or traded under then-prevailing market conditions) to be the minimum  
16 interest rates which would enable the Remarketing Agent to remarket the Series D Bonds  
17 on the effective date of such rates at a price (without regarding accrued interest) equal to  
18 the principal amount thereof, except as otherwise provided in the Remarketing Agreement.  
19 If for any reason the Fixed Rates are not so determined by the Remarketing Agent on or  
20 prior to the first day of such period, then the Series D Bonds shall continue to bear interest  
21 at a Variable Rate determined in accordance with Section 2.03(c) until such time as the  
22 interest rate on the Series D Bonds shall have been adjusted to the Fixed Rates as provided  
23 herein, and the Series D Bonds shall be subject to mandatory purchase upon notice from the  
24 Registered Owners thereof as described in Section 2.04(a).

25 Prior to conversion of the Series D Bonds to Fixed Rates, the county may at its  
26 option direct that all or a portion of the Series D Bonds upon conversion shall consist of  
27 serial bonds maturing on the dates and in the amounts set forth in the Purchase Contract

1 pursuant to Section 3.02 for the mandatory redemption of Series D Bonds or as otherwise  
2 determined by the Remarketing Agent pursuant to the Remarketing Agreement (assuming  
3 receipt of an Opinion of Bond Counsel with respect thereto) and bearing interest at the rates  
4 determined by the Remarketing Agent in accordance herewith and with the Remarketing  
5 Agreement for each such serial maturity.

6 In connection with the conversion of the Series D Bonds to Fixed Rates, the  
7 Remarketing Agent shall determine the necessity for additional or alternative CUSIP  
8 numbers prior to the conversion of such interest rate.

9 (ii) Conversion to Fixed Rates.

10 (A) Subject to Section 2.03(g), at any time, the county, by  
11 written direction to the Bond Registrar, the Tender and Paying Agent, the Bank and the  
12 Remarketing Agent, may elect that the Series D Bonds in their entirety shall be converted to  
13 Fixed Rates until their maturity. The Finance director is hereby authorized and directed to  
14 make such election on behalf of the county at any time after the Closing on the Series D  
15 Bonds in order to cause the Series D Bonds to be remarketed at Fixed Rates within the  
16 coverage limits established in Ordinance 12593. If the county elects that the Series D  
17 Bonds shall bear interest at Fixed Rates, the direction of the county required by the first  
18 sentence of this paragraph (A): (1) shall specify the proposed effective date of such  
19 conversion, which date shall be a Business Day not earlier than the seventh day following  
20 the second Business Day after the receipt by the Tender and Paying Agent of such direction;  
21 and (2) shall specify a date or dates on or prior to which Registered Owners are required to  
22 deliver their Series D Bonds to be purchased.

23 (B) The direction of the county described in  
24 Section 2.03(d)(ii)(A) shall be accompanied by an Opinion of Bond Counsel if and as  
25 required by Section 2.03(g).

26 (iii) Notice of Fixed Rates. The Tender and Paying Agent shall  
27 give notice by first-class mail of a conversion to Fixed Rates to the Registered Owners of



1 the Series D Bonds not less than seven (7) days prior to the effective date of such Fixed  
2 Rates. Such notice shall state (1) that the interest rate on the Bonds shall be converted to  
3 Fixed Rates unless (a) Bond Counsel fails to deliver its Opinion to the county, the Bond  
4 Registrar, the Tender and Paying Agent and the Remarketing Agent as to such conversion  
5 in the interest rate on or prior to the effective date of such conversion, if and as required by  
6 Section 2.03(g), or (b) the county rescinds its election to convert the interest rate to Fixed  
7 Rates as provided in Section 2.03(g); (2) the proposed effective date of such Fixed Rates;  
8 (3) that the Series D Bonds are subject to mandatory tender for purchase on the proposed  
9 effective date and setting forth the applicable Purchase Price and the place of delivery for  
10 purchase of the Series D Bonds; and (4) that the Liquidity and Credit Facility will be  
11 surrendered to the Bank for cancellation upon conversion of the Series D Bonds to Fixed  
12 Rates.

13 (e) Determination of Rates Conclusive. The determination for the  
14 Series D Bonds of the Variable Rates and Fixed Rates by the Remarketing Agent shall be  
15 conclusive and binding upon the county, the Bond Registrar, the Remarketing Agent, the  
16 Bank, the Tender and Paying Agent and the Registered Owners of the Series D Bonds.

17 (f) Form of Election. If the county elects to convert the interest rate on  
18 the Series D Bonds to Fixed Rates as provided in Section 2.03(d)(ii), the written direction  
19 furnished by the county to the Bond Registrar, the Tender and Paying Agent, the  
20 Remarketing Agent and the Bank as required by such section shall be made by registered or  
21 certified mail, or by telex or telecopy, confirmed by registered or certified mail.

22 (g) Opinion of Bond Counsel; Rescission of Election. Notwithstanding  
23 anything to the contrary in this Section 2.03, in connection with the conversion of the  
24 interest rate on the Series D Bonds to Fixed Rates, the county (if such election is not  
25 rescinded by the county as provided in the next succeeding sentence) shall cause an Opinion  
26 of Bond Counsel to be delivered to the Bond Registrar, the Bank, the Tender and Paying  
27 Agent and the Remarketing Agent on the day the notice of election is delivered to such

1 parties, and shall cause to be delivered a confirming Opinion of Bond Counsel to such  
2 parties on the effective date of such conversion, to the effect that the conversion will not  
3 adversely affect the tax-exempt status of the Series D Bonds. The county shall have the  
4 right to deliver to the Remarketing Agent, the Tender and Paying Agent, the Bond  
5 Registrar and the Bank on or prior to 10:00 a.m., New York City time, on the effective date  
6 of such conversion to a Fixed Rate a notice to the effect that the county elects to rescind its  
7 election to make such conversion. If Bond Counsel fails to deliver an Opinion of Bond  
8 Counsel on the effective date of any conversion for which such an opinion is required or if  
9 the county rescinds its election to make such conversion as provided above and does not  
10 make a timely new election, then the interest rate on the Series D Bonds shall not be  
11 converted, and such Bonds shall continue to bear interest at a Variable Rate in effect  
12 immediately prior to such proposed conversion in the interest rate. In any event, if notice of  
13 such conversion has been mailed to the Registered Owners of the Series D Bonds as  
14 provided in this Section 2.03 and Bond Counsel fails to deliver an Opinion of Bond Counsel  
15 on the effective date, if such an opinion is required, or if the county rescinds its election to  
16 make such conversion as described herein, such Series D Bonds shall continue to be subject  
17 to mandatory tender for purchase on the date which would have been the effective date of  
18 such conversion as provided in Section 2.04(b).

19 Following the payment of the Purchase Price of the Series D Bonds upon such  
20 conversion, the Liquidity and Credit Facility, if any, then in effect shall terminate and/or be  
21 delivered by the Tender and Paying Agent to the Bank for cancellation as provided in  
22 Section 2.06 and in such Liquidity and Credit Facility.

23 SECTION 2.04. Purchase of Bonds.

24 (a) Optional Tender. During any period in which the Series D Bonds  
25 bear interest at a Variable Rate, any Series D Bond or a portion thereof shall be purchased  
26 from its Registered Owner at the option of the Registered Owner on any Business Day at a  
27 Purchase Price equal to the principal amount thereof plus accrued interest, if any, from and

1 including the Interest Accrual Date immediately preceding the date of purchase through and  
2 including the day immediately preceding the date of purchase, unless the date of purchase  
3 shall be an Interest Accrual Date in which case at a Purchase Price equal to the principal  
4 amount thereof, payable in immediately available funds, upon delivery to the Tender and  
5 Paying Agent at the Delivery Office of the Tender and Paying Agent of an irrevocable  
6 written notice which states the CUSIP number and the principal amount of and the date on  
7 which the Series D Bond or portion thereof shall be purchased, which date shall be a  
8 Business Day not prior to the seventh day next succeeding the date of the delivery of such  
9 notice to such Tender and Paying Agent. Both the tendered and retained portions of any  
10 Series D Bond shall be in Authorized Denominations. Any notice delivered to the Tender  
11 and Paying Agent for such Series D Bond after 4:00 p.m., New York City time, shall be  
12 deemed to have been received on the next succeeding Business Day. If the Series D Bonds  
13 are in certificated form, for payment of such Purchase Price on the date specified in such  
14 notice, such Series D Bond must be delivered, at or prior to 10:00 a.m., New York City  
15 time, on the date specified in such notice, to the Tender and Paying Agent at the Delivery  
16 Office of the Tender and Paying Agent, accompanied by an instrument of transfer thereof, in  
17 form satisfactory to the Tender and Paying Agent, executed in blank by the Registered  
18 Owner thereof or his or her duly authorized attorney, with such signature guaranteed.

19 (b) Mandatory Tender.

20 (i) Mandatory Tender Upon Conversion. All of the Series D  
21 Bonds shall be subject to mandatory tender for purchase on the first day that Series D  
22 Bonds bear interest at Fixed Rates, or on the day which would have been the first day of  
23 such period had one of the events specified in Section 2.03(g) not occurred which results in  
24 the interest rate on the Series D Bonds not being adjusted, at a Purchase Price, payable in  
25 immediately available funds, equal to the principal amount of such Series D Bonds (with  
26 interest paid as provided in Section 2.02). If the Series D Bonds are in certificated form,  
27 the Purchase Price of any Bond so purchased shall be payable only upon surrender of such

1 Series D Bond to the Tender and Paying Agent at the Delivery Office of the Tender and  
2 Paying Agent, accompanied by an instrument of transfer thereof, in form satisfactory to the  
3 Tender and Paying Agent, executed in blank by the Registered Owner thereof or his or her  
4 duly authorized attorney, with such signature guaranteed.

5 (ii) Mandatory Tender For Purchase Upon Termination,  
6 Expiration, Reduction, Replacement or Modification of the Liquidity and Credit Facility. If  
7 at any time the Tender and Paying Agent gives notice in accordance with Section 2.06 that  
8 the Series D Bonds shall on the date specified in such notice cease to be payable from the  
9 Liquidity and Credit Facility as a result of (1) the scheduled termination or expiration of the  
10 Liquidity and Credit Facility, (2) receipt by the Tender and Paying Agent of notice from the  
11 Bank of the occurrence of specified events of default under the Liquidity and Credit Facility  
12 or the related Reimbursement Agreement giving rise to a right on the part of the Bank to  
13 direct a mandatory tender for purchase of the Series D Bonds and directing the Tender and  
14 Paying Agent to effect such mandatory purchase, or (3) the Liquidity and Credit Facility  
15 being reduced, replaced or modified with the effect that any Series D Bonds other than  
16 Bank Bonds are no longer payable from the Liquidity and Credit Facility, then on the fifth  
17 (5th) day preceding any such termination, expiration, reduction, replacement or  
18 modification of the Liquidity and Credit Facility, or, in the case of receipt of notice from the  
19 Bank of an event of default under the Liquidity and Credit Facility or the related  
20 Reimbursement Agreement, and directing the Tender and Paying Agent to effect a  
21 mandatory purchase of the Series D Bonds, on a Business Day not less than ten (10) days  
22 but not more than fifteen (15) days after receipt of such notice, as the case may be, then all  
23 of such Series D Bonds shall be purchased or deemed purchased as provided herein. The  
24 Purchase Price for such Series D Bonds shall be equal to the principal amount thereof, plus  
25 accrued interest, if any, thereon.

26 Payment of the Purchase Price of the Series D Bonds shall be made in immediately  
27 available funds by the close of business on such Purchase Date upon delivery of each

1 Series D Bond to the Tender and Paying Agent at the Delivery Office of the Tender and  
2 Paying Agent, accompanied by an instrument of transfer thereof, in form satisfactory to  
3 such Tender and Paying Agent, executed in blank by the Registered Owner thereof with the  
4 signature of such Registered Owner guaranteed, at or prior to 10:00 a.m., New York City  
5 time, on the date specified for such delivery in Section 2.04(b)(iii), or, if no such date shall  
6 have been so specified, on such fifth (5th) day preceding such expiration, termination,  
7 reduction or replacement of such Liquidity and Credit Facility.

8 (iii) Notice of Mandatory Tender for Purchase. In connection with any  
9 mandatory tender for purchase of Series D Bonds in accordance with Section 2.04(b)(ii),  
10 the Tender and Paying Agent shall give the notice provided herein as a part of the notice  
11 given pursuant to Section 2.03(d)(iii) or 2.09. Such notice shall state (A) that the Purchase  
12 Price of each Series D Bond shall be payable only upon surrender of such Series D Bond to  
13 the Tender and Paying Agent at the Delivery Office of the Tender and Paying Agent,  
14 accompanied by an instrument of transfer thereof, in form satisfactory to the Tender and  
15 Paying Agent, executed in blank by the Registered Owner thereof or his or her duly-  
16 authorized attorney, with such signature guaranteed; (B) that all Series D Bonds shall be  
17 purchased on the mandatory purchase date; (C) that, in the case of certificated Series D  
18 Bonds, if the Registered Owner of any Series D Bond so subject to mandatory tender for  
19 purchase does not surrender such Series D Bond to the Tender and Paying Agent for  
20 purchase on such mandatory purchase date, such Series D Bond shall be deemed to be an  
21 Undelivered Bond, and that no interest shall accrue thereon on and after such mandatory  
22 purchase date and that the Registered Owner thereof shall have no rights under this  
23 Ordinance other than to receive payment of the Purchase Price thereof; and (D) that the  
24 Purchase Price shall be paid by wire transfer to the Registered Owner thereof by the close  
25 of business on such purchase date (unless such purchase date is also an Interest Payment  
26 Date in which case the interest portion of the Purchase Price shall be paid in accordance  
27 with the payment provisions for an Interest Payment Date).

1 (c) Irrevocable Notice Deemed to be Tender of Bond; Undelivered  
2 Bonds.

3 (i) The giving of notice by a Registered Owner of a Series D  
4 Bond as provided in Section 2.04(a) shall constitute the irrevocable tender for purchase of  
5 such Series D Bond or portion thereof with respect to which such notice shall have been  
6 given regardless of whether such Series D Bond is delivered to the Tender and Paying  
7 Agent for purchase on the applicable purchase date as provided in Section 2.04(a).

8 (ii) The Tender and Paying Agent may refuse to accept delivery  
9 of any such Series D Bonds for which a proper instrument of transfer has not been  
10 delivered; provided, however, that such refusal shall not affect the validity of the purchase  
11 of such Series D Bond as herein described. If any Registered Owner of a Series D Bond  
12 who has given notice of tender of purchase pursuant to Section 2.04(a) or any Registered  
13 Owner of a Series D Bond subject to mandatory tender for purchase pursuant to  
14 Section 2.04(b)(i) or 2.04(b)(ii) fails to deliver such Series D Bond to the Tender and  
15 Paying Agent at the Delivery Office of the Tender and Paying Agent on the applicable  
16 purchase date and at the time specified, or fails to deliver such Series D Bond properly  
17 endorsed, such Series D Bond shall constitute an Undelivered Bond.

18 If funds in the amount of the Purchase Price of the Undelivered Bond are available  
19 for payment to the Registered Owner thereof on the date and at the time specified, from and  
20 after the date and time of that required delivery, (1) the Undelivered Bond shall be deemed  
21 to be purchased and shall no longer be deemed to be Outstanding under this Ordinance;  
22 (2) interest shall no longer accrue thereon; and (3) funds in the amount of the Purchase  
23 Price of the Undelivered Bond shall be held by the Tender and Paying Agent in the Payment  
24 Fund in a segregated account identified for each such Registered Owner for benefit of the  
25 Registered Owner thereof, to be paid upon delivery (and proper endorsement) of the  
26 Undelivered Bond to the Tender and Paying Agent at the Delivery Office of the Tender and  
27 Paying Agent.

1            SECTION 2.05.        Remarketing of Bonds. Immediately upon its receipt, but not  
2 later than 10:15 a.m., New York City time, on the following Business Day, from a  
3 Registered Owner of a notice pursuant to Section 2.04(a), the Tender and Paying Agent  
4 shall notify the Remarketing Agent, the Bond Registrar, the Bank and the county by  
5 telephone, promptly confirmed in writing, or by facsimile, of such receipt, specifying the  
6 principal amount of Series D Bonds for which it has received a notice pursuant to  
7 Section 2.04(a), the names of the Registered Owners thereof and the date on which such  
8 Series D Bonds are to be purchased in accordance with Section 2.04(a).

9            The date on which Series D Bonds are to be purchased pursuant to Section 2.04(a)  
10 or 2.04(b) is hereinafter referred to as the "Purchase Date" and the Series D Bonds to be  
11 purchased pursuant to such subsections are hereinafter collectively referred to as the  
12 "Purchased Bonds".

13            Upon receipt by the Remarketing Agent of any of the notices referred to in  
14 Section 2.04(a) or upon notice of the occurrence of any of the events referred to in  
15 Section 2.04(b), the Remarketing Agent shall offer for sale and use its reasonable best  
16 efforts to sell the Purchased Bonds in accordance with the terms hereof and of the  
17 Remarketing Agreement.

18            As soon as practicable, but in any event by no later than 4:00 p.m., New York City  
19 time, on the last Business Day prior to the Purchase Date, the Remarketing Agent shall  
20 notify the Bond Registrar and the Tender and Paying Agent by telephone, promptly  
21 confirmed in writing, or by facsimile, of the principal amount of Purchased Bonds for which  
22 the Remarketing Agent has received indications of interest from prospective purchasers and  
23 of the name, address and taxpayer identification number of each such purchaser, the  
24 principal amount of Purchased Bonds to be purchased, and the Authorized Denominations  
25 in which such Purchased Bonds are to be delivered. Upon receipt from the Remarketing  
26 Agent of such information, the Bond Registrar shall prepare Purchased Bonds in

1 accordance with such information received from the Remarketing Agent for the registration  
2 of transfer and redelivery to the Remarketing Agent.

3 By 11:00 a.m., New York City time, on the Purchase Date, the Tender and Paying  
4 Agent shall notify the county, the Bond Registrar and the Bank by telephone, promptly  
5 confirmed in writing, or by facsimile, as to the aggregate Purchase Price of the Purchased  
6 Bonds.

7 As used herein, the term "Purchase Price" of any Purchased Bonds means the  
8 principal amount thereof plus accrued interest at the applicable Variable Rate(s) to, but not  
9 including, the Purchase Date; provided, however, that if the Purchase Date for any  
10 Purchased Bond is an Interest Payment Date, the Purchase Price thereof shall be the  
11 principal amount thereof, and the interest on such Bond shall be paid to the Registered  
12 Owner of such Bond pursuant to Section 2.02.

13 Subject to the provisions of Section 2.16, any Purchased Bonds in certificated form  
14 that are subject to mandatory tender for purchase in accordance with Section 2.04(b) that  
15 have not been presented to the Tender and Paying Agent on the Purchase Date and any  
16 Purchased Bonds in certificated form that are the subject of a notice pursuant to  
17 Section 2.04(a) that are not presented to the Tender and Paying Agent on the Purchase  
18 Date, shall in accordance with the provisions of this Ordinance be deemed to have been  
19 purchased upon the deposit of money equal to the Purchase Price thereof into the Payment  
20 Fund as set forth in Section 2.04(c)(ii).

21 SECTION 2.06. Liquidity and Credit Facility. If at any time there shall have  
22 been delivered to the Tender and Paying Agent an Alternate Liquidity and Credit Facility  
23 pursuant to Section 2.07 and the documents required by that section, then the Tender and  
24 Paying Agent shall accept such Alternate Liquidity and Credit Facility as the new Liquidity  
25 and Credit Facility and surrender the previously held Liquidity and Credit Facility for  
26 cancellation in accordance with its terms, except that no such surrender shall occur until  
27 after the date on which the Series D Bonds have been purchased in accordance with Section



1 2.04(b). If at any time all of the Series D Bonds shall no longer be Outstanding hereunder,  
2 the Tender and Paying Agent shall surrender the Liquidity and Credit Facility, if any, to the  
3 issuer or provider thereof in accordance with the terms of such Liquidity and Credit Facility  
4 for cancellation. The Tender and Paying Agent shall comply with the procedures set forth  
5 in any Liquidity and Credit Facility relating to the termination thereof and is authorized to  
6 reduce the amount available to be drawn or paid under the Liquidity and Credit Facility in  
7 accordance with the provisions thereof upon payment of a corresponding principal amount  
8 of Series D Bonds at maturity or upon prior redemption.

9 In connection with the replacement, termination, expiration, reduction or  
10 modification of a Liquidity and Credit Facility (other than a modification that does not  
11 result in the Liquidity and Credit Facility being deemed an Alternate Liquidity and Credit  
12 Facility), the Tender and Paying Agent is hereby directed to give the notice of mandatory  
13 tender for purchase of such Bonds as provided in Section 2.04(b)(iii).

14 SECTION 2.07. Alternate Liquidity and Credit Facility. At any time prior to  
15 the expiration or termination of the Liquidity and Credit Facility, if any, then in effect with  
16 respect to the Series D Bonds, the county may, at its option, provide for the delivery to the  
17 Tender and Paying Agent of an Alternate Liquidity and Credit Facility. Any such Alternate  
18 Liquidity and Credit Facility to be held by the Tender and Paying Agent shall be issued by a  
19 domestic or foreign commercial bank (or branch or agency of such foreign commercial  
20 bank), and shall have a term of at least one year. Any Alternate Liquidity and Credit  
21 Facility delivered to the Tender and Paying Agent pursuant to this section shall contain  
22 administrative provisions reasonably acceptable to the Tender and Paying Agent. On or  
23 prior to the date of the delivery of such Alternate Liquidity and Credit Facility to the Tender  
24 and Paying Agent, the county shall furnish to the Tender and Paying Agent and the  
25 Remarketing Agent the documents listed in the following paragraph. Upon receipt of such  
26 Alternate Liquidity and Credit Facility and the other documents specified in this Section  
27 2.07, and after notice of delivery of such Alternate Liquidity and Credit Facility has been

1 given as provided in Section 2.09, the Tender and Paying Agent shall surrender the  
2 Liquidity and Credit Facility being replaced to the issuer thereof for cancellation in  
3 accordance with its terms; provided, that all draws under the Liquidity and Credit Facility to  
4 be surrendered shall have been honored.

5 If at any time there shall be delivered to the Tender and Paying Agent (i) an  
6 Alternate Liquidity and Credit Facility, (ii) an Opinion of Bond Counsel to the effect that  
7 delivery of such Alternate Liquidity and Credit Facility will not, in and of itself, adversely  
8 affect the exclusion from gross income of interest on the Series D Bonds for federal income  
9 tax purposes, (iii) written evidence from Moody's, if the Series D Bonds are then rated by  
10 Moody's, and S&P, if the Series D Bonds are then rated by S&P, in each case to the effect  
11 that such rating agency has reviewed the proposed Alternate Liquidity and Credit Facility  
12 and the rating(s) of such Series D Bonds after substitution of such Alternate Liquidity and  
13 Credit Facility will not be withdrawn, suspended or reduced as a result of such replacement,  
14 (iv) an opinion or opinions of counsel and/or Bond Counsel to the effect that no registration  
15 of the Series D Bonds or such Alternate Liquidity and Credit Facility is required under the  
16 Securities Act of 1933, as amended, and qualification of this Ordinance is not required  
17 under the Trust Indenture Act of 1939, as amended, (v) an opinion of counsel reasonably  
18 satisfactory to the Tender and Paying Agent to the effect that such Alternate Liquidity and  
19 Credit Facility is a valid and enforceable obligation of the issuer or provider thereof, and  
20 (vi) all information required to give the notice of mandatory tender for purchase of the  
21 Bonds as required by Section 2.09, then the Tender and Paying Agent shall accept such  
22 Alternate Liquidity and Credit Facility and, after the date of the mandatory tender for  
23 purchase established pursuant to Section 2.04(b)(ii), promptly surrender the Liquidity and  
24 Credit Facility being replaced to the Bank which issued such Liquidity and Credit Facility  
25 for cancellation in accordance with its terms.

26 SECTION 2.08. Rights and Duties under Liquidity and Credit Facility. The  
27 Tender and Paying Agent is hereby instructed, without further direction, to request

1 payments under any Liquidity and Credit Facility then in effect in accordance with the terms  
2 and conditions set forth herein and therein at the times, in the manner and for the purposes  
3 set forth herein and therein. The county agrees that the Tender and Paying Agent in its  
4 name or in the name of the county may enforce all rights of the Tender and Paying Agent  
5 and all obligations of the Bank (including the obligation of the Bank to make payments in  
6 accordance with the terms and conditions of the Liquidity and Credit Facility) under and  
7 pursuant to the Liquidity and Credit Facility, for the benefit of the Registered Owners of the  
8 Series D Bonds. The Tender and Paying Agent is authorized to assume and perform the  
9 duties and obligations contemplated under any Liquidity and Credit Facility to be assumed  
10 and performed by the Tender and Paying Agent.

11 SECTION 2.09. Notice of Termination, Event of Default or Other Change in  
12 Liquidity and Credit Facility. The Tender and Paying Agent shall give notice by mail to the  
13 Registered Owners of the Series D Bonds on or before the fifteenth (15th) day preceding:  
14 the termination or expiration of such Liquidity and Credit Facility in accordance with its  
15 terms; any replacement of such Liquidity and Credit Facility with an Alternate Liquidity and  
16 Credit Facility; any reduction in or modification of the terms of the Liquidity and Credit  
17 Facility (other than a modification that does not result in the Liquidity and Credit Facility  
18 being deemed an Alternate Liquidity and Credit Facility); or any event of default under the  
19 Liquidity and Credit Facility or the related Reimbursement Agreement of which the Tender  
20 and Paying Agent has been given notice by the Bank resulting in a mandatory tender of the  
21 Series D Bonds pursuant to Section 2.04(b)(ii); which notice shall (i) describe generally the  
22 Liquidity and Credit Facility in effect prior to such termination, expiration, replacement,  
23 reduction or modification, (ii) state the date of such termination, expiration, replacement,  
24 reduction or modification and the date of the proposed substitution of the Alternate  
25 Liquidity and Credit Facility (if any), (iii) state that such Series D Bonds will be purchased  
26 pursuant to Section 2.04(b)(ii) on the fifth (5th) day preceding such termination, expiration,  
27 replacement, reduction or modification or, in the case of a mandatory purchase due to

1 receipt of notice from the Bank of a specified event of default under the Liquidity and  
2 Credit Facility or related Reimbursement Agreement, on the date determined as provided in  
3 Section 2.04(b)(ii), and (iv) any other information required in the notice to the Registered  
4 Owners of the Series D Bonds by Section 2.04(b)(iii).

5 The county shall give the Tender and Paying Agent and the Remarketing Agent  
6 written notification of any extension, termination, expiration, reduction or modification of a  
7 Liquidity and Credit Facility (other than a modification that does not result in the Liquidity  
8 and Credit Facility being deemed an Alternate Liquidity and Credit Facility) and the  
9 replacement thereof with an Alternate Liquidity and Credit Facility as soon as practicable  
10 after receiving knowledge thereof.

11 SECTION 2.10. Appointment of Remarketing Agent and Tender and Paying  
12 Agent.

13 (a) Remarketing Agent. The county shall appoint a Remarketing Agent  
14 to perform the obligations stated herein. The Remarketing Agent shall be a national bank or  
15 a member of the National Association of Securities Dealers, Inc., having a capitalization of  
16 at least fifteen million dollars (\$15,000,000) and authorized by law to perform all the duties  
17 imposed upon it by this Ordinance. The Remarketing Agreement is hereby approved in  
18 substantially the form attached hereto as Exhibit B. The Finance director is hereby  
19 authorized to execute the Remarketing Agreement in final form.

20 The Remarketing Agent may at any time resign and be discharged by giving at least  
21 sixty (60) days' notice to the county, the Tender and Paying Agent, the Bank and the Bond  
22 Registrar. If no successor has been appointed in accordance herewith, the Tender and  
23 Paying Agent shall act as Remarketing Agent until a successor is appointed but shall not be  
24 required to remarket any Series D Bonds hereunder. The Remarketing Agent may be  
25 removed only with the prior written approval of the Bank (which approval shall not be  
26 unreasonably withheld); provided, that the Bank has not failed to make any required  
27 payment under the Liquidity and Credit Facility, and only upon the prior appointment of a

1 successor Remarketing Agent and its acceptance of such appointment. In the event of the  
2 resignation or removal of the Remarketing Agent, the Remarketing Agent shall pay over,  
3 assign and deliver any money and Series D Bonds held by it in such capacity to its  
4 successor. Upon receipt of notice of the resignation of the Remarketing Agent, the county  
5 will promptly appoint a successor Remarketing Agent, approved in writing by the Bank.

6 The Remarketing Agent shall designate to the county, the Bank, the Bond Registrar  
7 and the Tender and Paying Agent its principal office and signify its acceptance of the duties  
8 and obligations imposed upon it hereunder by a written instrument of acceptance delivered  
9 to the county, the Bond Registrar, the Bank and the Tender and Paying Agent. The  
10 Remarketing Agent shall:

11 (i) establish the interest rate on the Series D Bonds in  
12 accordance with the procedures set forth herein and in the Remarketing Agreement;

13 (ii) keep such books and records with respect to the remarketing  
14 of the Bonds as shall be consistent with prudent industry practice and make such books and  
15 records available for inspection by the county, the Bank, the Bond Registrar and the Tender  
16 and Paying Agent during normal business hours upon reasonable prior notice;

17 (iii) promptly notify the county, the Bank and the Tender and  
18 Paying Agent of any change in the interest rate on the Bonds pursuant to Section 2.03; and

19 (iv) perform all of the duties and obligations of the Remarketing  
20 Agent as set forth herein and in the Remarketing Agreement.

21 (b) Tender and Paying Agent. The Bank of New York, New York, New  
22 York, is appointed the initial Tender and Paying Agent for the Series D Bonds. The  
23 Finance director is hereby authorized to execute the Tender and Payment Agent Agreement  
24 in substantially the form set forth in Exhibit D hereto.

25 The Tender and Paying Agent shall be a national bank with trust powers or a trust  
26 company, duly organized under the laws of the United States or any state with a principal  
27 corporate trust office located in New York, New York, having a combined capital stock,

1 undivided profits and surplus of at least one hundred million dollars (\$100,000,000) and  
2 authorized by law to perform all the duties imposed upon it by this Ordinance and the  
3 Tender and Paying Agent Agreement.

4 No resignation or removal of the Tender and Paying Agent and no appointment of a  
5 successor Tender and Paying Agent shall become effective until the acceptance of  
6 appointment by the successor Tender and Paying Agent, until all money and investments in  
7 the Payment Fund have been transferred to the successor Tender and Paying Agent, and  
8 until the Liquidity and Credit Facility has been transferred to the successor Tender and  
9 Paying Agent. The Tender and Paying Agent may at any time resign and be discharged by  
10 giving notice to the county, the Bank, the Remarketing Agent and the Bond Registrar. If an  
11 instrument of acceptance by a successor Tender and Paying Agent shall not have been  
12 delivered to the Tender and Paying Agent within sixty (60) days after the giving of such  
13 notice of resignation, the resigning Tender and Paying Agent may petition any court of  
14 competent jurisdiction for the appointment of a successor Tender and Paying Agent. The  
15 Tender and Paying Agent may be removed only with the prior written approval of the Bank  
16 (which approval shall not be unreasonably withheld); provided, that the Bank has not failed  
17 to make any required payment under the Liquidity and Credit Facility.

18 Upon the resignation or removal of the Tender and Paying Agent, the county will  
19 promptly appoint a substitute Tender and Paying Agent, approved in writing by the Bank  
20 and the Remarketing Agent.

21 The Tender and Paying Agent shall designate to the county, the Remarketing Agent,  
22 the Bond Registrar and the Bank its Principal Office and Delivery Office for delivery of  
23 notices and Series D Bonds, and shall signify its acceptance of the duties and obligations  
24 imposed upon it hereunder by a written instrument of acceptance delivered to the county,  
25 the Remarketing Agent, the Bond Registrar and the Bank.

1 By acceptance of its appointment hereunder, the Tender and Paying Agent agrees to  
2 perform the duties and obligations of the Tender and Paying Agent as set forth herein and in  
3 the Tender and Paying Agent Agreement.

4 SECTION 2.11. Notice of Bonds Delivered for Purchase; Purchase of Bonds.

5 (a) Notice of Tender. For purposes of Section 2.04, the Tender and  
6 Paying Agent shall determine timely and proper delivery of the Series D Bonds pursuant to  
7 this Ordinance and the proper endorsement of such Bonds. Such determination shall be  
8 binding on the Registered Owners of such Bonds, the county, the Bank, the Tender and  
9 Paying Agent, and the Remarketing Agent, absent manifest error. The Tender and Paying  
10 Agent shall give notice by telephone promptly confirmed in writing, or by facsimile, to the  
11 Bond Registrar, the county, the Remarketing Agent and the Bank specifying the principal  
12 amount of such Series D Bonds, if any, as to which it shall receive notice of tender for  
13 purchase in accordance with Section 2.04(a), and the names of the Registered Owners of  
14 such Series D Bonds, and the date on which such Series D Bonds are to be purchased.

15 (b) Purchase of Series D Bonds. Series D Bonds required to be  
16 purchased in accordance with Section 2.04 shall be purchased by the Tender and Paying  
17 Agent from the Registered Owners thereof in accordance with the Tender and Paying Agent  
18 Agreement, on the date and at the Purchase Price at which such Bonds are required to be  
19 purchased. Funds for the payment of such Purchase Price shall be derived solely from  
20 money furnished to the Tender and Paying Agent for deposit into the Bank Purchase  
21 Account representing money received from payments under the Liquidity and Credit  
22 Facility.

23 (c) Registration of Purchased Bonds; Untendered Bonds.

24 (i) The Bond Registrar shall authenticate a new Series D Bond  
25 or Bonds in the principal amount of Series D Bonds purchased in accordance with  
26 Section 2.11(b), whether or not the Series D Bonds so purchased are presented by the  
27 Registered Owners thereof, bearing a number or numbers not contemporaneously

1 outstanding. Every Series D Bond authenticated and delivered as provided in this section  
2 shall be entitled to all the benefits of this Ordinance equally and proportionately with any  
3 and all other Series D Bonds duly issued hereunder. The Bond Registrar shall maintain a  
4 record of the Series D Bonds purchased as provided in Section 2.11(b), together with the  
5 names and addresses of the former Registered Owners thereof.

6 (ii) If any Series D Bond in certificated form purchased as  
7 provided in this section shall not be presented to the Tender and Paying Agent, the Tender  
8 and Paying Agent shall segregate and hold the money for the Purchase Price of such Bond  
9 in trust for the benefit of the former Registered Owner of such Bond who shall, except as  
10 provided in the following sentence, thereafter be restricted exclusively to such money for  
11 the satisfaction of any claim for the Purchase Price of such Bond. Any money that the  
12 Tender and Paying Agent segregates and holds in trust for the payment of the Purchase  
13 Price of any such Bond and remaining unclaimed for one year after the date of purchase  
14 shall, upon the county's written request to the Tender and Paying Agent, be paid to the  
15 Bank to the extent the Bank has not been reimbursed for any payment under the Liquidity  
16 and Credit Facility relating to such purchase, and thereafter to the county. After the  
17 payment of such unclaimed money to the Bank or to the county, the former Registered  
18 Owner of such Bond shall look only to the county for the payment thereof.

19 (d) Remarketing Proceeds. The Tender and Paying Agent shall deposit  
20 into the Remarketing Account any amounts received by it from the Remarketing Agent  
21 against receipt of Series D Bonds by the Remarketing Agent and on account of Purchased  
22 Bonds remarketed pursuant to the terms of the Remarketing Agreement. Immediately after  
23 such deposit, the Tender and Paying Agent shall notify the county, the Bond Registrar and  
24 the Bank by telephone (not later than 11:45 a.m., New York City time), promptly confirmed  
25 in writing, or by facsimile, as to the amount then on deposit in the Remarketing Account.  
26 Amounts in the Remarketing Account shall be applied by the Tender and Paying Agent  
27 promptly to reimburse the Bank for payments under the Liquidity and Credit Facility.



1 (e) Payment Under Liquidity and Credit Facility. The Tender and Paying  
2 Agent shall request payment under the Liquidity and Credit Facility, if any, in an amount  
3 equal to the aggregate Purchase Price of the Purchased Bonds, such request to be made at  
4 the time and in the manner required by the Liquidity and Credit Facility to ensure that funds  
5 are available for the purchase of Purchased Bonds on the Purchase Date. A copy of such  
6 request shall be mailed by the Tender and Paying Agent to the county. The Tender and  
7 Paying Agent shall deposit the funds received from the Bank pursuant to such request  
8 (which funds shall be immediately available funds) to the Bank Purchase Account.

9 Funds paid under the Liquidity and Credit Facility shall be used for the  
10 payment of the Purchase Price of Series D Bonds no later than 3:00 p.m. on the day such  
11 payment is made, or to reimburse the Bank for such payment, if and to the extent such  
12 funds are not required for that purpose.

13 (f) Remarketed Bank Bonds. The Tender and Paying Agent shall  
14 deposit into the Remarketing Account any amounts received by it on account of Bank  
15 Bonds remarketed pursuant to the terms of the Remarketing Agreement on any Business  
16 Day in which such Bank Bonds are remarketed against receipt of those Bank Bonds from  
17 the Bank Bondholder by the Remarketing Agent. Such amounts deposited in the  
18 Remarketing Account shall be used by the Tender and Paying Agent, pursuant to the  
19 Tender and Paying Agent Agreement, (i) to reimburse the Bank for a payment under the  
20 Liquidity and Credit Facility used to provide funds to purchase such Bank Bonds, or (ii) to  
21 reimburse the county for payment to the Bank in connection therewith.

22 SECTION 2.12. Remarketing of Bonds; Notice of Interest Rates.

23 (a) Remarketing of Bonds. Upon a mandatory tender or notice of the  
24 optional tender for purchase of Series D Bonds, the Remarketing Agent shall offer for sale  
25 and use its reasonable best efforts to sell such Series D Bonds in accordance with the  
26 Remarketing Agreement, any such sale to be made on the date of such purchase in  
27 accordance with Section 2.04 at a Purchase Price equal to the principal amount thereof plus

1 accrued interest, if any, thereon to the Purchase Date. Any Series D Bond which is  
2 tendered for purchase pursuant to Section 2.04(a) after that Bond has become subject to  
3 mandatory tender for purchase pursuant to Section 2.04(b) shall be remarketed by the  
4 Remarketing Agent only to a purchaser who agrees in writing to hold the Series D Bonds  
5 only to the date of mandatory purchase. The Remarketing Agent shall not sell any Series D  
6 Bonds purchased pursuant to Section 2.04 to the county or to any person who controls, is  
7 controlled by, or is under common control with, the county, and the county will not  
8 purchase any Series D Bonds from the Remarketing Agent.

9 (b) Notice of Interest Rates. The Remarketing Agent shall determine the  
10 rates of interest to be borne by the Series D Bonds that are not Bank Bonds as provided in  
11 Section 2.03, and the Remarketing Agent shall furnish to the county, Tender and Paying  
12 Agent, the Bank and the Bond Registrar, by telephone, promptly confirmed in writing, or by  
13 facsimile, on the date of determination each rate of interest so determined.

14 (c) Registration Instructions. The Remarketing Agent shall give notice  
15 by telephone, promptly confirmed in writing, or by facsimile, to the Tender and Paying  
16 Agent and the Bond Registrar on each date on which Series D Bonds shall have been  
17 remarketed pursuant to Section 2.12(a), specifying the principal amount of such Bonds, if  
18 any, remarketed by it pursuant to Section 2.12(a) along with a list of such purchasers  
19 showing the names and denominations in which such Series D Bonds shall be registered,  
20 and the addresses and social security or taxpayer identification numbers of such purchasers  
21 as provided in Section 2.05.

22 SECTION 2.13. Delivery of Bonds; Disbursements. By 11:30 a.m.,  
23 New York City time, on the Purchase Date, a principal amount of Series D Bonds equal to  
24 the amount of Purchased Bonds purchased with money from the Bank Purchase Account  
25 shall be made available by the Tender and Paying Agent to the Remarketing Agent against  
26 payment therefor.

1 Series D Bonds purchased with money described in Section 2.11(b) and for which  
2 no remarketing proceeds have been received to reimburse the Liquidity and Credit Facility  
3 shall be Bank Bonds and shall be governed by Section 2.15. All Bonds shall be registered in  
4 the manner directed by the Remarketing Agent.

5 SECTION 2.14. Draws on Liquidity and Credit Facility to Pay Purchase Price.

6 The Tender and Paying Agent, on each day on which Series D Bonds are required to be  
7 purchased pursuant to Section 2.04, is directed to request payments under the Liquidity and  
8 Credit Facility, if any, by such times and in such manner as shall be required to receive on  
9 the Purchase Date immediately available funds sufficient to pay the Purchase Price of  
10 Purchased Bonds, to the extent and in the manner provided herein, and to deposit the  
11 proceeds of such drawings in the Bank Purchase Account pending application of such  
12 money to the payment of the Purchase Price of such Bonds, and to the extent not required  
13 for such purposes to the reimbursement of the Bank. In no event shall payment be  
14 requested or made under a Liquidity and Credit Facility to pay the Purchase Price of any  
15 Bank Bonds.

16 SECTION 2.15. Transfer and Exchange of Bonds. All Bonds are transferable

17 or exchangeable by the Registered Owner thereof, in person or by the Registered Owner's  
18 attorney duly authorized in writing, at the principal corporate trust office of the Bond  
19 Registrar in the Bond Register, upon surrender of such Bonds accompanied by delivery of a  
20 duly executed instrument of transfer or exchange in a form approved by the Bond Registrar.  
21 Whenever any Bond or Bonds shall be surrendered for transfer or exchange, the Bond  
22 Registrar shall execute and deliver a new Bond or Bonds of Authorized Denominations of  
23 the same series, interest rate, maturity date and aggregate principal amount, except that the  
24 Bond Registrar may require the payment by any Registered Owner requesting such transfer  
25 or exchange of any tax or other governmental charge required to be paid with respect to  
26 such transfer or exchange. Any Bank Bonds transferred to another Bank Bondholder shall  
27 bear a legend to the effect that such Bank Bond is subject to the restrictions on transfer

described in the Liquidity and Credit Facility or Reimbursement Agreement and that, in accordance with the Liquidity and Credit Facility or Reimbursement Agreement, such Bank Bond must be tendered for purchase upon successful remarketing thereof and if not so tendered such Bank Bond shall cease to be a Bank Bond and shall cease to bear interest at the Bank Interest Rate. All Bonds surrendered pursuant to the provisions of this Section 2.15 shall be cancelled by the Bond Registrar, shall not be redelivered and shall be disposed of as directed by the county, except that the Bond Registrar may, but shall not be required to, destroy any cancelled Bonds.

The Bond Registrar shall not be required to transfer or exchange any Bonds (i) during the period commencing on the date that is ten (10) days prior to the date of selection of Bonds for redemption and ending on such date of selection, (ii) selected for redemption in whole or in part or (iii) during the period from the Record Date to the next succeeding Interest Payment Date.

SECTION 2.16. Initial Immobilization of Bonds; Depository Provisions. The Bonds initially shall be held in fully immobilized form by DTC acting as depository pursuant to the terms and conditions set forth in the Blanket Issuer Letter of Representations heretofore executed on behalf of the county. Neither the county nor the Bond Registrar shall have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds with respect to the accuracy of any records maintained by DTC or any DTC participant, the payment by DTC or any DTC participant of any amount in respect of principal or redemption price or interest on the Bonds, any notice which is permitted or required to be given to Registered Owners under this ordinance (except such notice as is required to be given by the county to the Bond Registrar or to DTC), the selection by DTC or any DTC participant of any person to receive payment in the event of a partial redemption of the Bonds or any consent given or other action taken by DTC as owner of the Bonds.

1           The Bonds initially shall be issued in denominations equal to the aggregate principal  
2 amount of each maturity and initially shall be registered in the name of CEDE & Co., as the  
3 nominee of DTC. The Bonds so registered shall be held in fully immobilized form by DTC  
4 as depository. For so long as any Bonds are held in fully immobilized form, DTC, its  
5 successor or any substitute depository appointed by the county, as applicable, shall be  
6 deemed to be the Registered Owner for all purposes hereunder and all references to  
7 Registered Owners, bondowners, bondholders, owners or the like shall mean DTC or its  
8 nominees and shall not mean the owners of any beneficial interests in the Bonds. Registered  
9 ownership of such Bonds, or any portions thereof, may not thereafter be transferred except:

10                   (i) To any successor of DTC or its nominee, if that successor shall be  
11 qualified under any applicable laws to provide the services proposed to be provided by it;

12                   (ii) To any substitute depository appointed by the county pursuant to this  
13 subsection or such substitute depository's successor; or

14                   (iii) To any person as herein provided if the Bonds are no longer held in  
15 immobilized form.

16           Upon the resignation of DTC or its successor (or any substitute depository or its  
17 successor) from its functions as depository, or a determination by the county that it is no  
18 longer in the best interests of beneficial owners of the Bonds to continue the system of book  
19 entry transfers through DTC or its successor (or any substitute depository or its successor),  
20 the county may appoint a substitute depository. Any such substitute depository shall be  
21 qualified under any applicable laws to provide the services proposed to be provided by it.

22           In the case of any transfer pursuant to clause (1) or (2) of the second paragraph of  
23 this subsection, the Bond Registrar, upon receipt of all outstanding Bonds together with a  
24 written request on behalf of the county, shall issue a single new Bond for each maturity of  
25 Bonds then outstanding, registered in the name of such successor or such substitute  
26 depository, or their nominees, as the case may be, all as specified in such written request of  
27 the county.

1 In the event that DTC or its successor (or substitute depository or its successor)  
2 resigns from its functions as depository, and no substitute depository can be obtained; or the  
3 county determines that beneficial owners of the Bonds be able to obtain Bond certificates,  
4 the ownership of Bonds may be transferred to any person as herein provided, and the Bonds  
5 shall no longer be held in fully immobilized form. The county shall deliver a written request  
6 to the Bond Registrar, together with a supply of definitive Bonds, to issue Bonds as herein  
7 provided in any authorized denomination. Upon receipt of all then outstanding Bonds by  
8 the Bond Registrar, together with a written request on behalf of the county to the Bond  
9 Registrar, new Bonds shall be issued in such denominations and registered in the names of  
10 such persons as are requested in such a written request.

11 C. Place, Manner and Medium of Payment. Both principal of and interest on  
12 the Bonds shall be payable in lawful money of the United States of America. For so long as  
13 outstanding Bonds are registered in the name of CEDE & Co., or its registered assigns, as  
14 nominee of DTC, payments of principal of and interest on the Bonds shall be made in same  
15 day funds on the date such payment is due and payable at the place and in the manner  
16 provided in the Blanket Issuer Letter of Representations.

17 SECTION 2.17. Execution of Bonds. The Bonds shall be executed on behalf  
18 of the county with the manual or facsimile signatures of the county executive and the clerk  
19 of the county council, and shall have the seal of the county impressed or imprinted thereon.

20 In case either or both of the officers who shall have executed the Bonds shall cease  
21 to be an officer or officers of the county before the Bonds so signed shall have been  
22 authenticated or delivered by the Bond Registrar, or issued by the county, such Bonds may  
23 nevertheless be authenticated, delivered and issued and upon such authentication, delivery  
24 and issuance, shall be as binding upon the county as though those who signed the same had  
25 continued to be such officers of the county. Any Bond also may be signed and attested on  
26 behalf of the county by such persons as at the actual date of execution of such Bond shall be

1 the proper officers of the county although at the original date of such Bond any such person  
2 shall not have been such officer of the county.

3 SECTION 2.18. Bond Registrar. The county hereby adopts the system of  
4 registration specified and approved by the Washington State Finance Committee for the  
5 Bonds. The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust  
6 office, sufficient books for the registration and transfer of the Bonds which shall at all times  
7 be open to inspection by the county. Such Bond Register shall contain the name and  
8 mailing address of the owner of each Bond or nominee of such owner and the principal  
9 amount and number of Bonds held by each owner or nominee. The Bond Registrar is  
10 authorized, on behalf of the county, to authenticate and deliver the Bonds transferred or  
11 exchanged in accordance with the provisions of such Bonds and this Ordinance and to carry  
12 out all of the Bond Registrar's powers and duties under this Ordinance.

13 The Bond Registrar shall be responsible for its representations contained in the  
14 Certificate of Authentication on the Bonds. The Bond Registrar may become the owner of  
15 Bonds with the same rights it would have if it were not the Bond Registrar.

16 SECTION 2.19. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond  
17 shall become mutilated, the Bond Registrar shall authenticate and deliver a new Bond of  
18 like series, principal amount, date, interest rate and tenor in exchange and substitution for  
19 the Bond so mutilated, upon the Registered Owner's paying the expenses and charges of the  
20 county and the Bond Registrar in connection therewith and upon surrender to the Bond  
21 Registrar of the Bond so mutilated. Every mutilated Bond so surrendered shall be canceled  
22 and destroyed by the Bond Registrar.

23 In case the Bonds or any of them shall be lost, stolen or destroyed, the Bond  
24 Registrar may authenticate and deliver a new Bond or Bonds of like series, principal  
25 amount, interest rate, date, and tenor to the Registered Owner thereof upon the Registered  
26 Owner's paying the expenses and charges of the county and the Bond Registrar in  
27 connection therewith and upon his/her filing with the Bond Registrar evidence satisfactory

1 to the Bond Registrar that such Bond or Bonds were actually lost, stolen or destroyed and  
2 of his/her ownership thereof, and upon furnishing the county and Bond Registrar with  
3 indemnity satisfactory to the Finance director and the Bond Registrar.

#### 4 ARTICLE III

#### 5 REDEMPTION OF BONDS

##### 6 SECTION 3.01. Optional Redemption.

7 (a) Variable Rate Bonds. The Series D Bonds bearing interest at a  
8 Variable Rate shall be subject to optional redemption by the county in whole or in part at a  
9 redemption price of par on any date, plus accrued interest, if any, to the redemption date.

10 (b) Fixed Rate Bonds. The Bonds bearing interest at Fixed Rates shall  
11 be subject to optional redemption by the county during the periods specified in the Purchase  
12 Contract and the Purchase Offer, in whole or in part at any time, at the redemption prices  
13 (expressed as a percentage of the principal amount) plus accrued interest, if any, to the  
14 redemption date as set forth in the Purchase Contract and the Purchase Offer; provided, that  
15 the Series C Bonds shall not be called for optional redemption prior to maturity under this  
16 Section 3.01 without the prior consent of the PFD.

17 (c) Liquidity and Credit Facility. Anything herein to the contrary  
18 notwithstanding, the redemption price of Variable Rate Bonds upon an optional mandatory  
19 or extraordinary mandatory redemption shall be paid solely from amounts paid under the  
20 Liquidity and Credit Facility.

21 SECTION 3.02. Mandatory Redemption. Except as otherwise provided in  
22 Section 2.03(d)(i), the Bonds are subject to mandatory sinking fund redemption prior to  
23 their stated maturity in part by lot in such manner as may be designated by the Bond  
24 Registrar at a redemption price equal to the principal amount of the Bonds to be redeemed,  
25 without premium, plus accrued interest thereon to the date of redemption, on the dates and  
26 in the amounts set forth in the Purchase Contract and the Purchase Offer.



1 Any mandatory sinking fund redemption may be satisfied by purchases of Bonds by  
2 the county in the open market at prices not to exceed par plus accrued interest, which  
3 purchases will be credited against the mandatory sinking fund redemptions at one hundred  
4 percent (100%) of the principal amount of Bonds so purchased.

5 SECTION 3.03. Extraordinary Mandatory Redemption. The Series B Bonds,  
6 the Series C Bonds and the Series D Bonds are subject to extraordinary mandatory  
7 redemption in whole on September 11, 1997 (or such later date determined in accordance  
8 with this section) if the county has not received by August 20, 1997, an opinion of Bond  
9 Counsel to the effect that the State Supreme Court has affirmed the Superior Court Ruling  
10 in all respects material to the validity of the Bonds, the sources of their repayment and the  
11 use of their proceeds or that any matters not affirmed by the State Supreme Court are not  
12 material to such issues. The extraordinary mandatory redemption date set forth above (the  
13 "Extraordinary Mandatory Redemption Date") shall be extended only upon delivery to the  
14 PFD and its escrow agent not less than thirty (30) days prior to the then applicable  
15 Extraordinary Mandatory Redemption Date of: (i) a certificate signed by the Finance  
16 director, specifying the new Extraordinary Mandatory Redemption Date and the date by  
17 which the Bond Counsel opinion must be received and setting forth instructions for  
18 investment of amounts on deposit in the Escrow Accounts, and any additional amounts  
19 required to be deposited therein, such that as of the new Extraordinary Mandatory  
20 Redemption Date the amounts on deposit in the Escrow Accounts and investment earnings  
21 thereon, will be sufficient to pay interest on the Series B Bonds, the Series C Bonds and the  
22 Series D Bonds as such interest payments shall come due, and the principal, premium, if  
23 any, and interest thereon on such new Extraordinary Mandatory Redemption Date; and (ii)  
24 an opinion or certificate of a certified public accountant or firm thereof verifying the  
25 mathematical accuracy of the calculations contained in the foregoing certificate. Upon  
26 receipt by the PFD and its Escrow Agent of the foregoing items, the new Extraordinary  
27 Mandatory Redemption Date set forth in the foregoing county certificate shall for all

1 purposes of the Ordinance be deemed to the Extraordinary Mandatory Redemption Date  
2 and supersede the previously applicable Extraordinary Mandatory Redemption Date  
3 thereunder.

4 The Series B Bonds, the Series C Bonds and the Series D Bonds may also be  
5 redeemed prior to the Extraordinary Mandatory Redemption Date upon receipt by the  
6 county, the PFD and its escrow agent of an opinion of Bond Counsel to the effect that the  
7 approving opinion described above cannot be given; provided, that adequate funds are  
8 available to redeem the Bonds to such earlier redemption date determined by the county.

9 The Series B Bonds, the Series C Bonds and the Series D Bonds shall be redeemed  
10 upon an Extraordinary Mandatory Redemption in accordance with this Section 3.03 at the  
11 price or prices set forth in the Purchase Contract, plus accrued interest to the date of  
12 redemption; provided, that the Series D Bonds while at a Variable Rate shall be redeemed at  
13 a price of par, plus accrued interest to the date of redemption.

14 Upon receipt of the Bond Counsel opinion described in the first sentence of this  
15 Section 3.03, the Extraordinary Mandatory Redemption described in this section shall no  
16 longer be applicable to the Series B Bonds, the Series C Bonds or the Series D Bonds.

17 SECTION 3.04. Partial Redemption. If less than all the Bonds are called for  
18 redemption, the particular Bonds or portions thereof to be redeemed shall be selected by the  
19 Bond Registrar by lot in such manner as the Bond Registrar in its discretion may deem  
20 proper, in the principal amount designated to the Bond Registrar by the county or otherwise  
21 as required by this Ordinance; except, however, that the portion of any Bond not to be  
22 redeemed shall be in an Authorized Denomination and that in connection with any  
23 redemption of Bonds, the Bond Registrar shall first select for redemption any Bank Bonds.  
24 The county may select the Bonds and maturity thereof to be optionally redeemed; provided,  
25 that in all events Bank Bonds shall be selected for redemption first.

26 In selecting Bonds for redemption, the Bond Registrar shall treat each Bond as  
27 representing that number of such Bonds which is obtained by dividing the principal amount

1 of such Bonds by the then-minimum Authorized Denomination. If it is determined that  
2 some portion, but not all, of the principal amount represented by any such Bonds is to be  
3 called for redemption, then, upon notice of intention to redeem such portion, the Registered  
4 Owner of such Bond shall forthwith surrender such Bonds to the Registrar for (A) payment  
5 to such Registered Owner of the redemption price of the portion of principal amount called  
6 for redemption, and (B) delivery to such Registered Owner of a new Bond or Bonds in the  
7 aggregate principal amount of the unredeemed balance of the principal amount of such  
8 Bond. New Bonds representing the unredeemed balance of the principal amount of such  
9 Bonds shall be delivered to the Registered Owner. If the Registered Owner of any such  
10 Bond shall fail to present such Bonds to the Bond Registrar for payment and exchange as  
11 aforesaid, such Bond nevertheless shall become due and payable on the date fixed for  
12 redemption to the extent of the portion of principal amount called for redemption (and to  
13 that extent only) and interest thereon shall cease to accrue.

14 Notwithstanding the foregoing, if the Bonds are held in fully immobilized form with  
15 DTC, Bonds shall be selected for redemption in accordance with the Letter of  
16 Representations; provided, however, that in all cases Bank Bonds shall be redeemed first.

17 SECTION 3.05. Notice of Redemption. The Bond Registrar shall give notice  
18 of redemption by first-class mail (except that if a Registered Owner owns one million  
19 dollars (\$1,000,000) or more in aggregate principal amount of any series of Bonds such  
20 notice shall be given by certified mail, return receipt requested) at least thirty (30) days but  
21 not more than sixty (60) days prior to the date fixed for redemption to the Registered  
22 Owners of the Bonds to be redeemed at the address for each such Registered Owner of the  
23 Bonds shown in the Bond Register; provided, that for an extraordinary mandatory  
24 redemption pursuant to Section 3.03, such notice shall be given at least fifteen (15) days  
25 prior to the date fixed for redemption. The failure to duly give such notice, or any defect  
26 therein, shall not affect the validity of any proceedings for the redemption of Bonds with  
27 respect to which no such failure or defect occurred. In addition, notice of redemption shall

1 be sent by certified mail, return receipt requested, contemporaneously with such mailing to  
2 the Securities Depositories and to two or more Information Services. A second notice of  
3 redemption shall be given by registered or certified mail, return receipt requested, mailed  
4 not less than sixty (60) nor more than ninety (90) days after the redemption date to any  
5 Registered Owner of Bonds to be redeemed that has not surrendered the Bonds called for  
6 redemption, at his or her address shown on the Bond Register. Records of the Bond  
7 Registrar showing that such notice was mailed as required by this section shall be conclusive  
8 evidence of the giving of such notice. Upon presentation and surrender of the Bonds so  
9 called for redemption at the place or places of payment, such Bonds shall be redeemed.

10 With respect to any notice of optional redemption of Bonds, unless upon the giving  
11 of such notice such Bonds or portions thereof shall be deemed to have been paid within the  
12 meaning hereof, such notice shall state that such redemption shall be conditioned upon the  
13 receipt by the Bond Registrar on or prior to the date fixed for such redemption of money  
14 sufficient to pay the principal of, premium, if any, and interest on such Bonds or portions  
15 thereof to be redeemed, and that if such money has not been so received such notice shall be  
16 of no force and effect and the county shall not be required to redeem such Bonds or  
17 portions thereof. If such notice of redemption contains such a condition and such money is  
18 not so received, the redemption shall not be made and the Bond Registrar shall within five  
19 (5) days thereafter give notice, in the manner in which the notice of redemption was given,  
20 that such money was not so received.

21 All notices of redemption shall be dated and shall state:

- 22 A. the redemption date;  
23 B. the redemption price;  
24 C. if less than all outstanding Bonds are to be redeemed, the identification (and,  
25 in the case of partial redemption, the respective principal amounts) of the Bonds to be  
26 redeemed;

1 D. that on the redemption date the redemption price will become due and  
2 payable upon each such Bond or portion thereof called for redemption, and that interest  
3 thereon shall cease to accrue from and after said date; and

4 E. the place where such Bonds are to be surrendered for payment of the  
5 redemption price, which place of payment shall be either of the principal offices of the Bond  
6 Registrar.

7 Such notice of redemption shall be mailed within the same period, postage prepaid,  
8 to Moody's and S&P at their offices in New York, New York, or their successors, and to  
9 such other persons and with such additional information as the Finance director shall deem  
10 appropriate, but such mailings shall not be a condition precedent to the redemption of the  
11 Bonds.

12 Each check or other transfer of funds issued for such purpose shall bear the CUSIP  
13 number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of  
14 such check or other transfer.

15 The requirements of this section shall be deemed to be complied with when notice is  
16 mailed as provided herein whether or not it is actually received by the Registered Owner.

17 Notwithstanding the foregoing, if the Bonds are held in fully immobilized form with  
18 DTC, notice of redemption shall be given in accordance with the Blanket Issuer Letter of  
19 Representations.

## 20 ARTICLE IV

### 21 FUNDS AND ACCOUNTS

22 SECTION 4.01. Bond Fund. There has heretofore been created a special fund  
23 of the county known as the "Limited Tax General Obligation Bond Redemption Fund" (the  
24 "Bond Fund"). A "Debt Service Account" has heretofore been established in the Bond  
25 Fund. The county hereby obligates and binds itself to cause to be set aside and paid into  
26 said account amounts sufficient, together with accrued interest received at the time of  
27 delivery of the Bonds, income from the investment of money in the Debt Service Account, if

1 any, and any other money on deposit in the Debt Service Account and legally available  
2 therefor, to pay the principal of and interest on outstanding Bonds as the same respectively  
3 become due and payable, or to reimburse the Bank for such payments made under the  
4 Liquidity and Credit Facility.

5 For each series of the Bonds, there is hereby authorized to be created a special  
6 subaccount in the Debt Service Account. All money required by this Section 4.01 of this  
7 Ordinance to be deposited into the Debt Service Account for the payment of principal and  
8 interest on such series of the Bonds shall be deposited into the debt service subaccount  
9 created for such series. Money in such subaccount shall be treated in all respects as all  
10 other money in the Debt Service Account but shall be accounted for separately for the  
11 purpose of calculating amounts required to be paid to the federal government pursuant to  
12 Section 5.03 of this Ordinance.

13 B. Term Bond Payment Subaccount. A "Term Bond Payment Account" has  
14 heretofore been established in the Bond Fund. The county shall deposit to the Term Bond  
15 Payment Account, on or before the first day of December of each year, additional money  
16 which together with available income from the investment of money in the Term Bond  
17 Payment Account will be sufficient to retire by purchase or by redemption pursuant to call  
18 any Bonds that are Term Bonds on or before such payment dates and in at least such  
19 principal amounts as are set forth herein for, such bonds. The amounts so paid into the  
20 Term Bond Payment Account shall be used for the sole purpose of purchasing or redeeming  
21 any Bonds on or before their respective scheduled payment dates, or to reimburse the Bank  
22 for such payments made under the Liquidity and Credit Facility, provided that, if more than  
23 the required principal amount of such Term Bonds shall be retired by such purchase or  
24 redemption in any given year, the amount required to be purchased or redeemed in the next  
25 succeeding year or years may be reduced accordingly.

26 C. Liquidity and Credit Facility Account. A "Liquidity and Credit Facility  
27 Account" is hereby created to be held by the Tender and Paying Agent. The Tender and

1 Paying Agent shall deposit in the Liquidity and Credit Facility Account, from time to time,  
2 the amounts paid under the Liquidity and Credit Facility to pay principal, interest and  
3 redemption price on the Variable Rate Bonds (but not the Purchase Price thereof). The  
4 county shall withdraw moneys held in the Liquidity and Credit Facility Account pursuant to  
5 the Tender and Paying Agent Agreement in such amounts and at such times as are  
6 necessary to make payments of principal, interest and redemption price on the Variable Rate  
7 Bonds when due and payable.

8 All amounts paid under the Liquidity and Credit Facility to pay principal, interest  
9 and redemption price on the Variable Rate Bonds which are not required to be used for  
10 such purposes on the date such moneys are received by the Tender and Paying Agent shall  
11 be promptly remitted by the Tender and Paying Agent to the Bank. Notwithstanding  
12 anything to the contrary contained herein, the Tender and Paying Agent shall at all times  
13 hold amounts received from the Bank under the Liquidity and Credit Facility separate and  
14 apart from all other funds, and shall not commingle such funds with any other amounts  
15 received from other sources.

16 SECTION 4.02. Pledge of Taxation and Credit. The county hereby  
17 irrevocably covenants and agrees, for as long as any of the Bonds are Outstanding and  
18 unpaid, that each year it will include in its budget and levy an *ad valorem* tax upon all the  
19 property within the county subject to taxation in an amount that will be sufficient, together  
20 with all other revenues, taxes and money of the county legally available for such purposes  
21 including the revenues, taxes and money pledged pursuant to Section 4.03 hereof, to pay  
22 the principal of and interest on the Bonds as the same shall become due or to reimburse the  
23 Bank for payments made under the Liquidity and Credit Facility. All such taxes so collected  
24 shall be paid into the Bond Fund no later than the date such funds are required for the  
25 payment of principal and interest on the Bonds.

26 The county hereby irrevocably pledges that the annual tax provided for herein to be  
27 levied for the payment of such principal and interest shall be within and as a part of the tax

1 levy permitted to counties without a vote of the people, and that a sufficient portion of each  
 2 annual levy to be levied and collected by the county prior to the full payment of the  
 3 principal of and interest on the Bonds will be and is hereby irrevocably set aside, pledged  
 4 and appropriated for the payment of the principal of and interest on the Bonds or to  
 5 reimburse the Bank for payments made under the Liquidity and Credit Facility.

6 The full faith, credit and resources of the county are hereby irrevocably pledged for  
 7 the annual levy and collection of said taxes and for the prompt payment of the principal of  
 8 and interest on the Bonds as the same shall become due or to reimburse the Bank for  
 9 payments made under the Liquidity and Credit Facility.

10 SECTION 4.03. Pledge of Special Revenues.

11 (a) So long as the Series A-1 Bonds, the Series B Bonds and the  
 12 Series D Bonds shall remain Outstanding, the county irrevocably covenants and agrees to  
 13 levy the following taxes and collect the following revenues in each fiscal year and hereby  
 14 pledges the proceeds of such taxes and revenues to payment of the Series A-1 Bonds, the  
 15 Series B Bonds and Series D Bonds, or to reimburse the Bank for payments made under the  
 16 Liquidity and Credit Facility to be used in the following order of priority:

- 17 (1) Food and Beverage Taxes;
- 18 (2) Car Rental Taxes;
- 19 (3) County Sales Taxes;
- 20 (4) State Lottery Receipts; and
- 21 (5) State License Plate Receipts.

22 (b) So long as the Series A-2 Bonds and the Series C Bonds shall remain  
 23 Outstanding, the county irrevocably covenants and agrees to levy the following taxes and  
 24 collect the following revenues in each fiscal year and hereby pledges the proceeds of such  
 25 taxes and revenues to payment of the Series A-2 Bonds and Series C Bonds, to be used in  
 26 the following order of priority:

- 27 (1) Stadium Admissions Taxes;



(2) payments by or on behalf of the Club made pursuant to (i) the Ballpark Operations and Lease Agreement dated as of December 23, 1996, as amended, between the Club and the PFD and (ii) Amendment No. 5;

(3) Car Rental Taxes;

(4) Food and Beverage Taxes;

(5) County Sales Taxes;

(6) State Lottery Receipts; and

(7) State License Plate Receipts.

SECTION 4.04. Special Taxes and Revenue. The county shall account for each special tax and revenue source identified in Section 4.03 separately and shall deposit proceeds of the County Sales Taxes, the State Lottery Receipts and the State License Plate Receipts which are not needed to pay debt service on the Bonds in a current fiscal year into the Bond Fund. Such excess amounts shall be further segregated into a separate subaccount entitled "Excess Debt Service Account" to defease or redeem bonds or to be used in subsequent years in the event that the special taxes and revenues pledged to pay debt service on the Bonds in such years, are not sufficient to pay such debt service. In the event that proceeds of the Food and Beverage Taxes or Car Rental Taxes in any fiscal year exceed the amount required in such fiscal year for debt service on the Bonds, after application of the special taxes and revenues in the order of priority set forth in Section 4.03, then such excess amounts shall be used to defease or redeem Bonds in accordance with this Ordinance and the Act in a manner directed by the Finance director.

The proceeds of the Stadium Admissions Taxes shall be held separate and apart by the county in a special trust account with the fiscal agency of the State of Washington and designated solely for the payment of debt service on the Series A-2 Bonds and the Series C Bonds so long as such Bonds remain Outstanding, and shall be applied for such purpose prior to any request or demand for payments from the Club pursuant to Section 4.03(b)(2). Series C Bonds shall not be called for optional redemption prior to maturity pursuant to

1 Section 3.01 or defeased without the consent of the PFD. Under no circumstances shall  
2 Stadium Admissions Taxes be used for any purpose whatsoever except to pay debt service  
3 on the Series A-2 Bonds and the Series C Bonds until such time as no Bonds remain  
4 Outstanding. At such time, such tax revenues may be used for any lawful purpose.

5 SECTION 4.05. Disposition of Proceeds of Bonds. The proceeds of each  
6 series of the Bonds shall be deposited as follows:

7 All proceeds of the Series B Bonds, the Series C Bonds and the Series D Bonds and  
8 an amount of Series A proceeds determined by the Finance director to be necessary to pay  
9 principal, premium, if any, and interest on the Series B Bonds, Series C Bonds and Series D  
10 Bonds, upon an Extraordinary Mandatory Redemption shall be deposited in the Equipment  
11 and Building Acquisition Fund and immediately transferred to the PFD for deposit with an  
12 escrow agent in a special trust or escrow account for each series pursuant to Amendment  
13 No. 5.

14 All proceeds of the Series A-1 Bonds and Series A-2 Bonds, except those  
15 transferred to the PFD as provided above, shall be deposited respectively in separate  
16 accounts of the Equipment and Building Acquisition Fund, a tier one fund managed by the  
17 Office of Budget and Strategic Planning previously established by the county (the "Series A  
18 Bonds Proceeds Accounts"). Amounts on deposit therein shall be used to pay the costs of  
19 issuing the Bonds as determined by the Finance director, and for any other lawful purpose.  
20 Upon receipt by the county of the opinion of Bond Counsel described in Section 3.03,  
21 amounts remaining in the Series A Bonds Proceed Accounts shall be transferred to the PFD  
22 pursuant to Amendment No. 5.

23 Upon receipt by the county, the PFD and the escrow agent of the PFD of the  
24 opinion of Bond Counsel described in Section 3.03, amounts held on deposit in the Escrow  
25 Accounts established by the PFD shall be released in accordance with Amendment No. 5;  
26 provided, that from amounts in the Escrow Accounts, the PFD will repay amounts owed to  
27 the county for advances to the PFD.

1           Upon an Extraordinary Mandatory Redemption as described in Section 3.03,  
 2 amounts on deposit in the Escrow Accounts of the PFD shall be applied in accordance with  
 3 Amendment No. 5 to redeem the Series B Bonds, the Series C Bonds and the Series D  
 4 Bonds.

5           SECTION 4.06.       Investment of Funds and Accounts.

6           A.     Money in the Bond Fund and accounts or subaccounts therein shall be  
 7 invested in any investments permitted for funds of the county; provided, that moneys in the  
 8 Liquidity and Credit Facility Account, the Remarketing Account and the Bank Purchase  
 9 Account shall be held uninvested.

10          B.     Obligations purchased as an investment of money in the Bond Fund and  
 11 accounts or subaccounts therein shall be deemed at all times to be a part of such respective  
 12 fund, account or subaccount and the income or interest earned, profits realized or losses  
 13 suffered by a fund, account or subaccount due to the investment thereof shall be retained in,  
 14 credited or charged, as the case may be, to such fund or account.

15          C.     In computing the amount in any fund or account under the provisions of this  
 16 ordinance, obligations purchased as an investment of money therein shall be valued at the  
 17 cost or market price thereof, whichever is lower, inclusive of accrued interest.

18                               ARTICLE V

19           REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS OF  
 20                               COUNTY

21           SECTION 5.01:       Certain Covenants. The county makes the following  
 22 representations, warranties, covenants and agreements for the benefit of the Registered  
 23 Owners from time to time of the Bonds:

24          A.     The county has full legal right, power and authority to adopt this ordinance,  
 25 to sell, issue and deliver the Bonds as provided herein, and to carry out and consummate all  
 26 other transactions contemplated by this Ordinance.

1           B.     By all necessary official action prior to or concurrently herewith, the county  
2 has duly authorized and approved the execution and delivery of, and the performance by the  
3 county of its obligations contained in, the Bonds and in this Ordinance and the  
4 consummation by it of all other transactions necessary to effectuate this Ordinance in  
5 connection with the issuance of the Bonds, and such authorizations and approvals are in full  
6 force and effect and have not been amended, modified or supplemented in any material  
7 respect.

8           C.     This Ordinance constitutes a legal, valid and binding obligation of the  
9 county.

10          D.     The Bonds, when issued, sold, authenticated and delivered, will constitute  
11 the legal, valid and binding general obligations of the county.

12          E.     The adoption of this Ordinance, and compliance on the county's part with  
13 the provisions contained herein, will not conflict with or constitute a breach of or default  
14 under any constitutional provisions, law, administrative regulation, judgment, decree, loan  
15 agreement, indenture, bond, note, resolution, ordinance, motion, agreement or other  
16 instrument to which the county is a party or to which the county or any of its property or  
17 assets are otherwise subject.

18          F.     The county finds and covenants that the Bonds are issued within all statutory  
19 and constitutional debt limitations applicable to the county.

20          G.     None of the proceeds of the Bonds will be used for any purpose other than  
21 as provided in this Ordinance, and the county shall not suffer any amendment or supplement  
22 to this Ordinance, or any departure from the due performance of the obligations of the  
23 county hereunder, which might materially adversely affect the rights of the Registered  
24 Owners from time to time of the Bonds.

25          H.     All acts, conditions and things required by the Constitution and statutes of  
26 the State and the King County Charter and ordinances of the county to exist, to have  
27 happened, been done and performed precedent to and in the issuance of the Bonds have

1 happened, been done and performed and that the issuance of the Bonds does not violate any  
2 constitutional, statutory or other limitation upon the amount of bonded indebtedness that  
3 the county may incur.

4 SECTION 5.02. Tax-Exemption. The county shall comply with the provisions  
5 of this section unless, in the written opinion of nationally-recognized bond counsel to the  
6 county, such compliance is not required in order to maintain the exemption of the interest  
7 on the Series A-1 Bonds, Series B Bonds and Series D Bonds from federal income taxation.

8 The county hereby covenants that it will not make any use of the proceeds from the  
9 sale of the Series A-1 Bonds, Series B Bonds or Series D Bonds or any other funds of the  
10 county which may be deemed to be proceeds of such Bonds pursuant to Section 148 of the  
11 Code and the applicable regulations thereunder which will cause such Bonds to be  
12 "arbitrage bonds" within the meaning of said section and said regulations. The county will  
13 comply with the applicable requirements of Section 148 of the Code (or any successor  
14 provision thereof applicable to the Series A-1 Bonds, Series B Bonds or Series D Bonds)  
15 and the applicable regulations thereunder throughout the term of the Series A-1 Bonds,  
16 Series B Bonds or Series D Bonds.

17 The county further covenants that it will not take any action or permit any action to  
18 be taken that would cause the Series A-1 Bonds, Series B Bonds or Series D Bonds to  
19 constitute "private activity bonds" under Section 141 of the Code. To further assist in  
20 ensuring that such Bonds will not constitute "private activity bonds," the county covenants  
21 during such time as any Bonds remain Outstanding, that it will not levy the admissions taxes  
22 authorized under Section 203(3)(b) of the Act and RCW 36.38.010(b).

23 The County reasonably expects that \$45 million of construction expenditures will be  
24 paid with money from the Club pursuant to agreements between the Club and the PFD with  
25 respect to the construction and use of the baseball stadium.

26 SECTION 5.03. Arbitrage Rebate. The county will pay the Rebate Amount, if  
27 any, to the United States of America at the times and in the amounts necessary to meet the

requirements of the Code to maintain the federal income tax exemption for interest payments on the Series A-1 Bonds, Series B Bonds or Series D Bonds, in accordance with the Arbitrage and Tax Certification, and will otherwise comply with the covenants, agreements and undertakings in such Arbitrage and Tax Certificate.

## ARTICLE VI

### MISCELLANEOUS

SECTION 6.01. Sale of Bonds; Official Statement. The Series B Bonds, the Series C Bonds and the Series D Bonds shall be sold to Smith Barney Inc. as representative of the underwriters, under the terms of the Purchase Contract. The Series A Bonds shall be sold to Bank of America National Trust and Savings Association doing business as Seafirst Bank under the terms of the Purchase Offer. The Finance director is hereby authorized to execute the Purchase Contract and the Purchase Offer on behalf of the county.

The preliminary official statements for the Series B Bonds, Series C Bonds and Series D Bonds are hereby deemed final as of their respective dates within the meaning of SEC Rule 15c2-12. The Finance director is hereby authorized to review and approve on behalf of the county the final Official Statements for the Series B Bonds, Series C Bonds and Series D Bonds. The proper county officials are hereby authorized and directed to do everything necessary for the prompt execution and delivery of the Bonds, in accordance with the Purchase Contract and the Purchase Offer.

### SECTION 6.02. Undertaking to Provide Ongoing Disclosure.

(a) Contract/Undertaking. This section 6.02 constitutes the county's written undertaking for the benefit of the Registered Owners and Beneficial Owners of the Bonds as required by Section (b)(5) of the Rule.

(b) Continuing Disclosure. The Series D Bonds initially are not subject to Rule 15c2-12(b)(5) of the Commission (the "Rule"), relating to continuing disclosure requirements. Upon the conversion of interest on the Series D Bonds to Fixed Rates, or at

1 any other time upon receipt by the county of an opinion of Bond Counsel to the effect that  
2 such compliance is required, the county shall comply with the Rule.

3 (c) Financial Statements/Operating Data. The county agrees with  
4 respect to the Bonds, to provide or cause to be provided to each NRMSIR and to the SID,  
5 if any, in each case as designated by the Commission in accordance with the Rule, the  
6 following annual financial information and operating data for the prior fiscal year  
7 (commencing in 1998 for the fiscal year ended December 31, 1997):

8 (1) Annual financial statements prepared in accordance with the  
9 Budget Accounting and Reporting System prescribed by the Washington State Auditor  
10 pursuant to RCW 43.09.200 (or any successor statute) and generally of the type included in  
11 the official statements for the Bonds under the heading "Appendix B: Audited 1995  
12 Financial Statements";

13 (2) A summary of budgeted general fund revenues and  
14 appropriations;

15 (3) A summary of the assessed valuation of taxable property in  
16 the county;

17 (4) A summary of the ad valorem property tax levy and  
18 delinquency rate;

19 (5) A schedule of the aggregate annual debt service on tax-  
20 supported indebtedness of the county;

21 (6) A summary of outstanding tax-supported indebtedness of the  
22 county;

23 (7) A summary of revenues collected with regard to Food and  
24 Beverage Taxes, Car Rental Taxes, County Sales Taxes, State Lottery Receipts, State  
25 License Plate Receipts and Stadium Admission Taxes, and a summary of any amounts paid  
26 by the Club as described in Section 4.03(b)(2) of this Ordinance.

Such annual information and operating data described above shall be provided on or before seven months after the end of the county's fiscal year. The county's fiscal year currently ends December 31. The county may adjust such fiscal year by providing written notice of the change of fiscal year to each then existing NRMSIR and the SID, if any. In lieu of providing such annual financial information and operating data, the county may cross-reference to other documents provided to the Commission or to the NRMSIR and the SID and, if such document is a final official statement within the meaning of the Rule, available from the MSRB.

If not provided as part of the annual financial information discussed above, the county shall provide the county's audited annual financial statement prepared in accordance with the Budget Accounting and Reporting System prescribed by the Washington State Auditor pursuant to RCW 43.09.200 (or any successor statute) when and if available to each then existing NRMSIR and the SID, if any.

(d) Material Events. The county agrees to provide or cause to be provided, in a timely manner, to the SID, if any, and to each NRMSIR or to the MSRB notice of the occurrence of any of the following events with respect to the Bonds, if material:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions or events affecting the tax-exempt status of the Series A-1 Bonds, the Series B Bonds or the Series D Bonds;



- 1 (7) Modifications to rights of Bond holders;
- 2 (8) Bond calls (Optional, contingent or unscheduled calls of any
- 3 Bonds other than scheduled sinking fund redemptions for which notice is given pursuant to
- 4 Exchange Act Release 34-23856);
- 5 (9) Defeasances;
- 6 (10) Release, substitution or sale of property securing repayment
- 7 of the Bonds; and
- 8 (11) Rating changes.

9 Solely for purposes of disclosure, and not intending to modify this undertaking, the

10 county advises with reference to items (3) and (10) above that, as of the date of this

11 Ordinance, no debt service reserves secure payment of the Bonds and no property secures

12 repayment of the Bonds.

13 (e) Notification Upon Failure to Provide Financial Data. The county

14 agrees to provide or cause to be provided, in a timely manner, to each NRMSIR or to the

15 MSRB and to the SID, if any, notice of its failure to provide the annual financial

16 information described in subsection (c) above on or prior to the date set forth in

17 subsection (c) above.

18 (f) Termination/Modification. The county's obligations to provide

19 annual financial information and notices of material events shall terminate upon the legal

20 defeasance, prior redemption or payment in full of all of the Bonds. If such termination

21 occurs prior to the final maturity of the Bonds, the county shall give notice of such

22 termination in the same manner as for an event listed in Section 6.02(e). This section, or

23 any provision hereof, shall be null and void if the county (i) obtains an opinion of nationally

24 recognized bond counsel to the effect that those portions of the Rule which require this

25 section, or any such provision, are invalid, have been repealed retroactively or otherwise do

1 not apply to the Bonds; and (ii) notifies each then existing NRMSIR and the SID, if any, of  
2 such opinion and the cancellation of this section or any provision thereof.

3 Notwithstanding any other provision of this motion, the county may amend this  
4 Section 6.02, and any provision of this Section 6.02 may be waived, with an approving  
5 opinion of nationally recognized bond counsel.

6 In the event of any amendment or waiver of a provision of this Section 6.02, the  
7 county shall describe such amendment in the next annual report, and shall include, as  
8 applicable, a narrative explanation of the reason for the amendment or waiver and its impact  
9 on the type (or in the case of a change of accounting principles, on the presentation) of  
10 financial information or operating data being presented by the county. In addition, if the  
11 amendment relates to the accounting principles to be followed in preparing financial  
12 statements, (i) notice of such change shall be given in the same manner as for a material  
13 event under subsection 3, and (ii) the annual report for the year in which the change is made  
14 should present a comparison (in narrative form and also, if feasible, in quantitative form)  
15 between the financial statements as prepared on the basis of the new accounting principles  
16 and those prepared on the basis of the former accounting principles.

17 (g) Bond Owner's Remedies Under This Section. The right of any  
18 Registered Owner or Beneficial Owner of the Bonds to enforce the provisions of this  
19 section shall be limited to a right to obtain specific enforcement of the county's obligations  
20 hereunder, and any failure by the county to comply with the provisions of this undertaking  
21 shall not be an event of default with respect to the Bonds hereunder. For purposes of this  
22 section, "Beneficial Owner" means any person who has the power, directly or indirectly, to  
23 vote or consent with respect to, or to dispose of ownership of, any Bonds, including  
24 persons holding Bonds through nominees or depositories.

25 (h) Ratification. Any act performed consistent with the provisions of  
26 this Ordinance and prior to its effective date is hereby ratified and confirmed.

1           SECTION 6.03       General Authorization. The county executive, or his or her  
2       designee is hereby authorized and directed to do everything necessary for the prompt sale,  
3       issuance, execution and delivery of the Bonds, and for the proper use and application of the  
4       proceeds of the sale thereof, and is hereby further authorized, notwithstanding the  
5       provisions of any other ordinance, to execute such documents and agreements, with such  
6       changes therein as are deemed necessary or advisable by the county executive, or his or her  
7       designee, following consultation with Bond Counsel including, without limitation, the  
8       Tender and Paying Agent Agreement, and the Reimbursement Agreement, and to take such  
9       other actions as may be deemed necessary or advisable in connection therewith.

10           SECTION 6.04.       Refunding or Defeasance. The county may issue advance  
11       refunding bonds pursuant to the laws of the State or use money available from any other  
12       lawful source to pay when due the principal of and interest on the Bonds, or any portion  
13       thereof included in a refunding or defeasance plan, and to redeem and retire, refund or  
14       defease all such then-outstanding Bonds and to pay the costs of the refunding or  
15       defeasance.

16           In the event that money and/or noncallable Government Obligations maturing at  
17       such time or times and bearing interest to be earned thereon in amounts (together with such  
18       money, if necessary) sufficient to redeem and retire, refund or defease part or all of the  
19       Bonds in accordance with their terms, are set aside in a special account of the county to  
20       effect such redemption and retirement, and such money and the principal of and interest on  
21       such Government Obligations are irrevocably set aside and pledged for such purpose, then  
22       no further payments need be made into the Bond Fund for the payment of the principal of  
23       and interest on the Bonds so provided for, and such Bonds shall cease to be entitled to any  
24       lien, benefit or security of this Ordinance except the right to receive the money so set aside  
25       and pledged, and such Bonds shall be deemed not to be Outstanding hereunder; provided,  
26       that Variable Rate Bonds shall not be subject to defeasance as provided in this section.

1           Within 30 days of the defeasance of any of the Bonds, the Bond Registrar shall  
2 provide notice of defeasance of such Bonds to the registered owners of the Bonds and to  
3 each NRMSIR and SID, if any, in accordance with the ongoing disclosure provisions of  
4 Section 19 hereof.

5           SECTION 6.05.       Open Market Purchase. The county reserves the right to  
6 purchase any or all of the Bonds on the open market at any time at any price.

7           SECTION 6.06.       Amendment to County/PFD Financing Agreement.

8           (a)   Use of Bond Proceeds by PFD. The PFD will provide for the release  
9 of funds from its Escrow Accounts in accordance with Section 4.05, and will agree not to  
10 take any action or permit any action to be taken that would cause the interest on the  
11 Series A-1 Bonds, the Series B Bonds and the Series D Bonds to be included in gross  
12 income for federal income tax purposes.

13           (b)   Parking Facility Financing and Construction Agreement. The PFD  
14 will provide for the release of funds with respect to the Series C Bonds from its Escrow  
15 Account in accordance with Section 4.05, subject to the PFD obtaining the concurrence of  
16 the Club in a Parking Facility Financing and Construction Agreement, thereby confirming  
17 the obligation of the Club to make the payments described under Section 4.03(b)(2) hereof  
18 and as required under Section 3.7.3 of the Operations and Lease Agreement between the  
19 PFD and the Club.

20           (c)   Amendment to County/PFD Agreement. The agreements described  
21 in this Section 6.06 shall be incorporated into Amendment No. 5. Such amendment  
22 substantially in the form of Exhibit C hereto is hereby approved and the county executive is  
23 hereby authorized to execute such document in final form.

24           SECTION 6.07.       Supplemental Ordinances.

25           (a)   With Consent of Bondowners. This Ordinance, the Bonds and the  
26 rights and obligations of the county, the Tender and Paying Agent, the Bond Registrar, the  
27 Remarketing Agent, the Bank and the Registered Owners hereunder may be amended or

1 supplemented at any time by an amendment hereof or supplement hereto which shall  
2 become binding when the written consents of the Registered Owners of a majority in  
3 aggregate principal amount of the affected Bonds then Outstanding, and of the Bank when a  
4 Liquidity and Credit Facility is in effect and so long as the Bank is not in default under the  
5 Liquidity and Credit Facility (but the Bank shall be under no liability by reason of giving or  
6 withholding such consent). No such amendment or supplement shall (1) reduce the rate of  
7 interest on any Bond (including any Bank Bond) or extend the time of payment thereof or  
8 reduce the amount of principal or redemption premiums, if any, on any Bond (including any  
9 Bank Bond) or extend the maturity date thereof without the prior written consent of the  
10 Registered Owner of the Bond so affected, or (2) reduce the percentage of Registered  
11 Owners whose consent is required for the execution of any amendment hereof or  
12 supplement hereto, or (3) modify any of the rights or obligations of the Tender and Paying  
13 Agent, the Bond Registrar or the Remarketing Agent without its prior written consent  
14 thereto.

15 (b) Without Consent of Bondowners. This Ordinance, the Bonds and  
16 the rights and obligations of the county, the Tender and Paying Agent, the Bond Registrar,  
17 the Remarketing Agent, the Bank and the Registered Owners hereunder also may be  
18 amended or supplemented at any time by an amendment hereof or supplement hereto which  
19 shall become binding upon execution without the written consent of any Registered  
20 Owners, but with the written consent of the Bank (which consent shall not be unreasonably  
21 withheld) when a Liquidity and Credit Facility is in effect and so long as the Bank is not in  
22 default under the Liquidity and Credit Facility, and if the amendment or supplement  
23 modifies any of the rights or obligations of the Tender and Paying Agent, the Bond  
24 Registrar or the Remarketing Agent hereunder, with the written consent of the Tender and  
25 Paying Agent, the Bond Registrar or the Remarketing Agent, as applicable, only after  
26 receipt of a Favorable Opinion of Bond Counsel and only for any one or more of the  
27 following purposes:

1 (i) to add to the conditions, covenants and terms contained  
2 herein other conditions, covenants and terms thereafter to be observed or performed by the  
3 county, or to surrender any right reserved herein to or conferred herein on the county, and  
4 which in either case shall not adversely affect the interests of the Registered Owners in any  
5 material respect;

6 (ii) to make such provisions for the purpose of curing any  
7 ambiguity or of correcting, curing or supplementing any defective provision contained  
8 herein or in regard to questions arising hereunder which the county may deem desirable or  
9 necessary, and which shall not adversely affect the interests of the Registered Owners of the  
10 affected Bonds in any material respect;

11 (iii) to comply with the requirements of Moody's or S&P for the  
12 initial rating of the Series D Bonds in the highest possible short-term rating category;

13 (iv) to make such changes as are necessary to permit the Bonds to  
14 be held in certificated form or in fully immobilized form by a Securities Depository other  
15 than DTC;

16 (v) to grant to or confer upon the Tender and Paying Agent for  
17 the benefit of the Registered Owners of Series D Bonds any additional rights, remedies,  
18 powers or authorities that may lawfully be granted to or conferred upon the Registered  
19 Owners or the Tender and Paying Agent or either of them and which are not contrary or  
20 inconsistent with this Ordinance as theretofore in effect;

21 (vi) to subject to the lien and pledge hereof additional payments,  
22 revenues, properties or collateral, including, but not limited to, an Alternate Liquidity and  
23 Credit Facility, and to make such other changes which are necessary or advisable in  
24 connection with the delivery of such Alternate Liquidity and Credit Facility and which do  
25 not adversely affect Registered Owners of the Series D Bonds in any material respect;

(vii) to modify, amend or supplement this Ordinance or any ordinance supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States of America, and, if they so determine, to add hereto or to any indenture supplemental hereto such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar federal statute;

(viii) to make such changes as are necessary in connection with the succession of a new Tender and Paying Agent hereunder;

(ix) to specify and determine any matters and things relative to Bonds which are not contrary to or inconsistent with this Ordinance and which shall not adversely affect the interests of the Registered Owners of the Bonds in any material respect; or

(x) to make any amendment with respect to the Series D Bonds effective only upon any adjustment to a new interest rate period, but only if such amendment does not adversely affect the interests of the Registered Owners of any Outstanding Bonds in any material respect.

(c) Notice to Registered Owners, Bank and Remarketing Agent. If the county shall adopt any supplemental ordinance pursuant to Section 6.06(a), the Tender and Paying Agent shall, upon being satisfactorily indemnified with respect to expenses, cause written notice of the adoption of such supplemental resolution to be given by first class mail, postage prepaid, to the Bank (if such notice is required), the Remarketing Agent and the Registered Owners of the Bonds at their addresses shown on the Bond Register. If, within sixty (60) days or such longer period as shall be prescribed by the county following the mailing of such notice, the Registered Owners of not less than a majority in principal amount of the Bonds then Outstanding and affected by such amendment shall have

consented to such supplemental ordinance as provided herein, no Registered Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the county or the Tender and Paying Agent pursuant to the provisions thereof. Upon the consent to any such supplemental ordinance as permitted and provided in this section, this Ordinance shall be modified and amended in accordance therewith.

(d) No Other Amendment. This Ordinance may not be amended, changed or modified except by the execution and delivery of a supplemental resolution entered into in accordance with the provisions of this Section 6.06.

SECTION 6.08. Endorsement or Replacement of Bonds After Amendment or Supplement. After the effective date of any action taken as provided in Section 6.07, the county may determine that the Bonds may bear a notation by endorsement as to such action, and in that case upon demand of the Registered Owner of any Outstanding Bond and presentation of such Registered Owner's Bond for such action such notation shall be made on such Bond, or a new Bond bearing such notation shall be issued to such Registered Owner in exchange for the surrender of the Bond then held by the Registered Owner. All Bonds surrendered to the Bond Registrar pursuant to the provisions of this Section 6.08 shall be cancelled by the Bond Registrar and shall not be redelivered.

SECTION 6.09. Notices. All written notices to be given hereunder shall be given by first-class mail, postage prepaid to the party or parties entitled thereto at the address set forth below, or at such other address as may be provided to the other parties hereinafter listed in writing from time to time, namely:

If to the County:

King County, Washington  
County Administration Building, 6th Floor  
500 Fourth Avenue  
Seattle, Washington 98104  
Attention: Director of Finance



If to the Tender and Paying Agent or the Bond Registrar:

The Bank of New York  
101 Barclay Street, 21W  
New York, New York 10286  
Attention: Lenore Brown,  
Corporate Trust Trustee Administration

If to the Remarketing Agent:

Smith Barney Inc.  
Public Finance Department  
390 Greenwich Street, 2nd Floor  
New York, New York 10013  
Attention: Manager, Short-Term Finance Group

If to the Bank:

Kerrin M. Gibbons  
Vice President, Public Sector Banking  
Seafirst Bank  
Capital Markets Division  
800 Fifth Avenue, Floor 34  
Post Office Box 34662  
Seattle, WA 98124-1662

If to Moody's:

Moody's Investors Service, Inc.  
99 Church Street  
New York, New York 10007  
Attention: Public Finance Department Rating Desk/VRDO

If to S & P:

Standard & Poor's Corporation  
25 Broadway  
New York, New York 10004  
Attention: Manager, Municipal Finance Department

SECTION 6.10.      Payments Due on Holidays. If a payment date is not a Business Day, then payment shall be made on the next Business Day and no interest shall accrue for the intervening period.

SECTION 6.11.      Notices to Rating Agencies. The county shall give immediate notice to Moody's and S&P in the event:

1 (a) The Remarketing Agent or the Tender and Paying Agent resigns or is  
2 replaced.

3 (b) This Ordinance is amended or supplemented.

4 (c) The Liquidity and Credit Facility expires or is amended,  
5 supplemented, extended, terminated or replaced.

6 (d) The Series D Bonds are converted to Fixed Rates.

7 (e) There has been an optional or extraordinary redemption or  
8 defeasance of any of the Bonds.

9 (f) The Remarketing Agreement, the Tender and Paying Agent  
10 Agreement or the Purchase Agreement is amended, supplemented, extended, terminated or  
11 replaced.

12 SECTION 6.12. Next Succeeding Business Day. Unless otherwise noted in  
13 this Ordinance, if the day on which any act or function is to be performed or done is not a  
14 Business Day, such act or function shall be performed or done on the next succeeding  
15 Business Day.

16 SECTION 6.13. Contract, Severability. The covenants contained in this  
17 Ordinance shall constitute a contract between the county and the Registered Owners of  
18 each and every Bond. If any one or more of the covenants or agreements provided in this  
19 ordinance to be performed on the part of the county is determined by any court of  
20 competent jurisdiction to be contrary to law, then such covenant or covenants, agreement

or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds.

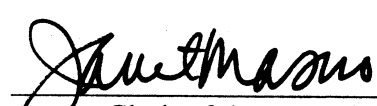
INTRODUCED AND READ for the first time this 10<sup>th</sup> day of March, 1997

PASSED by a vote of 8 to 5 this 2<sup>nd</sup> day of April, 1997.

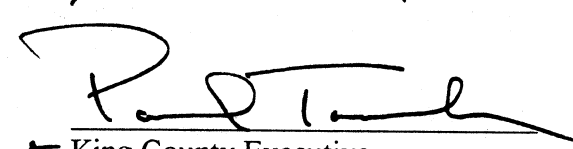
KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

Chair 

ATTEST:

  
Clerk of the Council

APPROVED this 3<sup>rd</sup> day of April, 1997

  
Deputy King County Executive

ATTACHMENTS:

Exhibit A	Bond Forms
Exhibit B	Remarketing Agreement
Exhibit C	Amendment No. 5 to County/PFD Agreement
Exhibit D	Tender and Paying Agent Agreement
Exhibit E	Liquidity and Credit Facility and Reimbursement Agreement
Exhibit F	Purchase Contract
Exhibit G	Purchase Offer

## EXHIBIT A

Form of Bonds. The Fixed Rate Bonds shall be in substantially the following form:

NO. \_\_\_\_\_

\$ \_\_\_\_\_

UNITED STATES OF AMERICA

STATE OF WASHINGTON

KING COUNTY

LIMITED TAX GENERAL OBLIGATION BOND

1997 SERIES [A-1]

[A-2 (TAXABLE)]

[B]

[C (TAXABLE)]

INTEREST RATE:

MATURITY DATE:

CUSIP NO.:

Registered Owner:

Principal Amount:

KING COUNTY, WASHINGTON (the "County"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date specified above, the Principal Amount specified above and to pay interest thereon (computed on the basis of a 360-day year of twelve 30-day months) from \_\_\_\_\_ 1, 1996, or the most recent date to which interest has been paid or duly provided for until payment of this bond at the Interest Rate set forth above, payable on \_\_\_\_\_ 1, \_\_\_\_\_, and semiannually thereafter on the first days of each succeeding \_\_\_\_\_ and \_\_\_\_\_.

Both principal of and interest on this bond are payable in lawful money of the United States of America. While bonds are held on immobilized "book entry" system of registration, the principal of this bond is payable to the order of the Registered Owner in next day funds received by the Registered Owner on the maturity date of this bond, and the interest on this bond is payable to the order of the Registered Owner in next day funds received by the Registered Owner on each interest payment date. When bonds are no longer held on an immobilized "book entry" registration system, the principal shall be paid to the Registered Owner or nominee of such owner upon presentation and surrender of this bond at either of the principal offices of the fiscal agency of the State of Washington in either Seattle, Washington or New York, New York (collectively the "Bond Registrar"), and the interest shall be paid by mailing a check or draft (on the date such interest is due) to the Registered Owner or nominee of such owner at the address shown on the registration books maintained by the Bond Registrar (the "Bond Register") as of the 15th day of the month prior to the interest payment date.

If so requested in writing by the Registered Owner of at least \$1,000,000 par value of the bonds, interest will be paid by wire transfer.

Reference is hereby made to additional provisions of this bond set forth below hereof and such additional provisions shall for all purposes have the same effect as if set forth in this space.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under King County Ordinance No. 1253 and Ordinance No. \_\_\_\_\_ (together, the "Bond Ordinance") until the Certificate of Authentication hereon shall have been manually signed by the Bond Registrar.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington and the Charter and ordinances of the County to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that the issuance of this bond and the bonds of this series does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the County may incur.

IN WITNESS WHEREOF, the County has caused this bond to be executed by the manual or facsimile signatures of the County Executive and to be attested by the Clerk of the County Council, and has caused the seal of the County to be impressed or imprinted hereon, as of this 1st day of \_\_\_\_\_, 199\_.

KING COUNTY, WASHINGTON

By \_\_\_\_\_ /s/  
King County Executive

ATTEST:

\_\_\_\_\_/s/  
Clerk of the County Council

#### ADDITIONAL PROVISIONS

This bond is one of an authorized issue of bonds of like series, date and tenor, except as to number, amount, rate of interest and date of maturity, in the aggregate principal amount of \$\_\_\_\_\_,000,000, and is issued to provide funds to the Washington State Major League Baseball Public Facilities District necessary to pay a portion of the costs to acquire, construct, own, remodel, maintain, equip, repair and operate [a major league baseball stadium] [parking facilities related to a major league baseball stadium].

The bonds of this issue are issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington, the County Charter and applicable ordinances duly adopted by the County. Capitalized terms not otherwise defined herein shall have the meanings given such terms in the Bond Ordinance.

The County has reserved the right to redeem in whole or in part the bonds of this issue maturing on and after \_\_\_\_\_ 1, \_\_\_\_\_, at the following times and prices expressed as a percentage of the principal amount, in each case together with accrued interest, if any, to the redemption date.

Redemption Periods

Redemption Prices

[The bonds of this issue maturing on \_\_\_\_\_ 1, \_\_\_\_\_, are also subject to redemption prior to maturity through mandatory amortization payments on \_\_\_\_\_ 1 of the following years and in the following amounts in each case at a redemption price of 100% of the principal amount of bonds to be redeemed, plus accrued interest to the date of redemption.

Years

Amount

\* Final Maturity]

Portions of the principal sum of this bond in installments of \$5,000 or any integral multiple thereof also may be redeemed in accordance with the provisions set forth above, and if less than all of the principal sum hereof is to be redeemed, upon the surrender of this bond at the principal offices of the Bond Registrar there shall be issued to the Registered Owner, without charge therefor, for the then unredeemed balance of the principal sum hereof, at the option of the owner, a bond or bonds of like series, maturity and interest rate in any of the denominations authorized by the Bond Ordinance.

Notice of redemption, unless waived, is given by the Bond Registrar by mailing an official redemption notice by first class mail, postage prepaid, not less than 30 days and not more than 60 days prior to the date fixed for redemption, to the Registered Owner of any bond to be redeemed at the address appearing on the Bond Register. The requirements for such notice shall be deemed to be complied with when notice is mailed as herein provided, regardless of whether or not it is actually received by the owner of any bond.

If such notice has been given and if the County has set aside, on the date fixed for redemption, sufficient money for the payment of all bonds called for redemption, the bonds so called shall cease to accrue interest after such redemption date, and all such bonds shall no longer

be deemed to be outstanding for any purpose, except that the Registered Owners thereof shall be entitled to receive payment of the redemption price and accrued interest to the redemption date from the money set aside for such purpose.

The County has further irrevocably covenanted and agreed with the owner of this bond that it will annually include in its budget and levy taxes, within and as a part of the tax levy permitted to counties without a vote of the electorate, upon all the property subject to taxation, in an amount sufficient, together with all other money legally available therefor, to pay the principal of and interest on this bond as the same shall become due. The full faith, credit and resources of the County are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

The County has further covenanted and pledged to levy and collect [(a) Food and Beverages Taxes, (b) Car Rental Taxes, (c) County Sales Taxes, (d) State Lottery Receipts (e) License Plate Receipts, all authorized by Chapter 1, Laws of 1995] [payments by The Baseball Club of Seattle, L.P. and certain taxes on admissions to the baseball stadium,] and to pay all such amounts so collected into the Bond Fund for the bonds of this issue to pay when due the principal of and interest on this bond, subject to their use in accordance with the Bond Ordinance.

The pledge of tax levies and of revenues for repayment of principal of and interest on the bonds of this issue may be discharged prior to maturity of the bonds by making provisions for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

The following abbreviations, when used in the inscription on the face of the within bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT (TRANSFERS) MIN ACT - \_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

under Uniform Gifts (Transfers) to Minors Act

\_\_\_\_\_  
(State)

Additional abbreviations may also be used though not listed above.

The Bond Registrar's Certificate of Authentication on the Bonds shall be in substantially the following form:

### CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within mentioned Bond Ordinance and is one of the Limited Tax General Obligation Bonds, 1997 Series [A-1] [A-2 (Taxable)] [B][C (Taxable)], of King County, Washington dated \_\_\_\_\_, 1997.

A WASHINGTON STATE FISCAL  
AGENCY, as Bond Registrar

By \_\_\_\_\_  
Authorized Officer

### ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_

PLEASE INSERT SOCIAL SECURITY OR  
TAXPAYER IDENTIFICATION NUMBER OF TRANSFEREE

(Please print or typewrite name and address, including zip code of Transferee)

the within bond and does hereby irrevocably constitute and appoint of \_\_\_\_\_,  
or its successor, as Bond Registrar to transfer said bond on the books kept for registration thereof  
with full power of substitution in the premises.

DATED: \_\_\_\_\_, 19\_\_\_\_.

NOTE: The signature on this Assignment must correspond with the name of the registered owner as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

SIGNATURE GUARANTEED:

NOTICE: Signature(s) must be  
guaranteed pursuant to law.



Form of Bonds. The Variable Rate Bonds shall be in substantially the following form:

NO. \_\_\_\_\_

\$ \_\_\_\_\_

UNITED STATES OF AMERICA

STATE OF WASHINGTON

KING COUNTY

LIMITED TAX GENERAL OBLIGATION VARIABLE RATE DEMAND BOND  
1997 SERIES C

INTEREST RATE:

MATURITY DATE:

CUSIP NO.:

Registered Owner:

Principal Amount:

KING COUNTY, WASHINGTON (the "County"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date specified above, the Principal Amount specified above and to pay interest thereon from May 10, 1997, or the most recent date to which interest has been paid or duly provided for until payment of this bond at the Variable Interest Rate determined on a weekly basis as described below, payable on the first Wednesday of each calendar month, or if such first Wednesday is not a Business Day, the next succeeding Business Day commencing May 7, 1997 (each, an "Interest Payment Date").

Both principal of and interest on this bond are payable in lawful money of the United States of America. While bonds are held on immobilized "book entry" system of registration, the principal of and interest on this bond is payable to the order of the Registered Owner on the date such money is due and payable at the place and in the manner and notice shall be given as provided in the Letter of Representation to DTC. When bonds are no longer held on an immobilized "book entry" registration system, the principal shall be paid to the Registered Owner or nominee of such owner upon presentation and surrender of this bond at either of the principal offices of the fiscal agency of the State of Washington in either Seattle, Washington or New York, New York (collectively the "Bond Registrar"), and the interest shall be paid by mailing a check or draft (on the date such interest is due) to the Registered Owner or nominee of such owner at the address shown on the registration books maintained by the Bond Registrar (the "Bond Register") as of the 15th day of the month prior to the interest payment date.

If so requested in writing by the Registered Owner of at least \$1,000,000 par value of the bonds, interest will be paid by wire transfer.

Reference is hereby made to additional provisions of this bond set forth below hereof and such additional provisions shall for all purposes have the same effect as if set forth in this space.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under King County Ordinance No. 12593 and Ordinance No. \_\_\_\_\_ (together, the "Bond Ordinance") until the Certificate of Authentication hereon shall have been manually signed by the Bond Registrar.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington and the Charter and ordinances of the County to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that the issuance of this bond and the bonds of this series does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the County may incur.

IN WITNESS WHEREOF, the County has caused this bond to be executed by the manual or facsimile signatures of the County Executive and to be attested by the Clerk of the County Council, and has caused the seal of the County to be impressed or imprinted hereon, as of this \_\_\_\_ day of \_\_\_\_\_, 1997.

KING COUNTY, WASHINGTON

By \_\_\_\_\_ /s/ \_\_\_\_\_  
King County Executive

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Clerk of the County Council

#### ADDITIONAL PROVISIONS

This bond is one of an authorized issue of bonds of like series, date and tenor, except as to number, amount, rate of interest and date of maturity, in the aggregate principal amount of \$150,000,000, and is issued to provide funds to the Washington State Major League Baseball Public Facilities District necessary to pay a portion of the costs to acquire, construct, own, remodel, maintain, equip, repair and operate a major league baseball stadium.

The bonds of this issue are issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington, the County Charter and applicable ordinances duly adopted by the County. Capitalized terms not otherwise defined herein shall have the meanings given such terms in the Bond Ordinance.

Until Conversion to a Fixed Rate, the rate of interest hereon shall be calculated on the basis of a year of 365 or 366 days, as appropriate, for the actual number of days elapsed, and shall be a rate (the "Variable Rate"), determined by the remarketing agent appointed pursuant to the Ordinance (the "Remarketing Agent"), each Tuesday unless such date is not a Business Day in which case the next Business Day; provided, that no new Variable Rate shall become effective within one Business Day prior to any Interest Payment Date. The Variable Rate determined by the Remarketing Agent shall be that rate of interest which, if borne by the Bonds, would, in its judgment having due regard to prevailing financial market conditions, be the interest rate necessary, but which would not exceed the interest rate necessary, to produce as nearly as practicable a par bid (disregarding accrued interest) if Bonds were sold on such date; provided, however, that the Variable Rate so determined will not at any time exceed 12% per annum.

The determination of the Variable Rate by the Remarketing Agent shall (in the absence of manifest error) be conclusive and binding on the owners of the Bonds, the county, the Bank, the Trustee, the Tender Agent and the Remarketing Agent.

Any Bond or \$5,000 units of principal amount thereof in excess of \$100,000 (so long as the remaining portion of any such Bond purchased in part is also in an Authorized Denomination) shall be purchased on any Business Day until and including the date of conversion to a Fixed Rate, on demand of the Registered Owner or Beneficial Owner of such Bond, at a purchase price equal to 100% of the principal amount thereof, plus interest accrued thereon, if any, to the date of purchase upon delivery prior to 11:00 a.m., New York time, to the Trustee, the Tender Agent and the Remarketing Agent of an irrevocable written notice (a "Tender Notice") which states (i) the principal amount of such Bond for which payment is demanded, (ii) the CUSIP numbers of such Bonds, and (iii) the date on which such Bond or portion thereof shall be purchased (the "Demand Date"), which date shall be a Business Day not prior to the seventh day next succeeding the date of the receipt of the Tender Notice by the county, Tender Agent and Remarketing Agent. Payment of the Purchase Price of any Bond so delivered shall be made by check or by wire transfer, as designated in the Tender Notice. If all of the Bonds shall have been called for redemption or mandatory tender unless notice is given to the purchaser of such Bonds regarding the impending call or tender, and no Bonds shall be so purchased or remarketed after the date that interest on the Bonds is converted to a Fixed Rate.

The rate of interest on the Bonds may, at the option of the county, be established at a fixed rate on any Interest Payment Date (the "Fixed Rate Conversion Date") in accordance with the procedures set forth in the Ordinance. The Trustee shall give notice of conversion to the owners of the Bonds, in the same manner that notices of redemption are given, not less than 15 days before the conversion date, specifying that the Bonds are subject to mandatory tender for purchase on the such date. IF THIS BOND IS NOT TENDERED FOR PURCHASE BY THE FIXED DATE FOR CONVERSION, IT WILL BE DEEMED TO HAVE BEEN SO TENDERED AND PURCHASED ON SUCH DATE, AT A PRICE EQUAL TO THE PRINCIPAL AMOUNT HEREOF PLUS INTEREST ACCRUED TO THE CONVERSION DATE.

The county has reserved the right to redeem in whole or in part the bonds of this issue on any Interest Payment Date, at the price of the principal amount called plus interest accrued to the date fixed for redemption.

The bonds of this issue are also subject to redemption prior to maturity through mandatory amortization payments on \_\_\_\_\_ 1 of the following years and in the following amounts in each case at a redemption price of 100% of the principal amount of bonds to be redeemed, plus accrued interest to the date of redemption.

Years

Amount

\* Final Maturity

Portions of the principal sum of this bond in installments of \$5,000 or any integral multiple thereof also may be redeemed in accordance with the provisions set forth above, and if less than all of the principal sum hereof is to be redeemed, upon the surrender of this bond at the principal offices of the Bond Registrar there shall be issued to the Registered Owner, without charge therefor, for the then unredeemed balance of the principal sum hereof, at the option of the owner, a bond or bonds of like series, maturity and interest rate in any of the denominations authorized by the Bond Ordinance.

Notice of redemption, unless waived, is given by the Bond Registrar by mailing an official redemption notice by first class mail, postage prepaid, not less than 30 days and not more than 60 days prior to the date fixed for redemption, to the Registered Owner of any bond to be redeemed at the address appearing on the Bond Register. The requirements for such notice shall be deemed to be complied with when notice is mailed as herein provided, regardless of whether or not it is actually received by the owner of any bond.

If such notice has been given and if the County has set aside, on the date fixed for redemption, sufficient money for the payment of all bonds called for redemption, the bonds so called shall cease to accrue interest after such redemption date, and all such bonds shall no longer be deemed to be outstanding for any purpose, except that the Registered Owners thereof shall be entitled to receive payment of the redemption price and accrued interest to the redemption date from the money set aside for such purpose.

The County has further irrevocably covenanted and agreed with the owner of this bond that it will annually include in its budget and levy taxes, within and as a part of the tax levy permitted to counties without a vote of the electorate, upon all the property subject to taxation, in an amount sufficient, together with all other money legally available therefor, to pay the principal of and interest on this bond as the same shall become due. The full faith, credit and resources of

12686

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_

PLEASE INSERT SOCIAL SECURITY OR  
TAXPAYER IDENTIFICATION NUMBER OF TRANSFeree

(Please print or typewrite name and address, including zip code of Transferee)

the within bond and does hereby irrevocably constitute and appoint of \_\_\_\_\_,  
or its successor, as Bond Registrar to transfer said bond on the books kept for registration thereof  
with full power of substitution in the premises.

DATED: \_\_\_\_\_, 19\_\_.

NOTE: The signature on this Assignment must correspond with the name of the registered owner as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

SIGNATURE GUARANTEED:

NOTICE: Signature(s) must be  
guaranteed pursuant to law.



the County are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

The County has further covenanted and pledged to levy and collect (a) Food and Beverage Taxes, (b) Car Rental Taxes, (c) County Sales Taxes, (d) State Lottery Receipts, and (e) State License Plate Receipts, all authorized by Chapter 1, Laws of 1995 and to pay all such amounts so collected into the Bond Fund for the bonds of this issue to pay when due the principal of and interest on this bond, subject to their use in accordance with the Bond Ordinance.

The pledge of tax levies and of revenues for repayment of principal of and interest on the bonds of this issue may be discharged prior to maturity of the bonds by making provisions for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

The following abbreviations, when used in the inscription on the face of the within bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT (TRANSFERS) MIN ACT - \_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

under Uniform Gifts (Transfers) to Minors Act

\_\_\_\_\_  
(State)

Additional abbreviations may also be used though not listed above.

126861

The Bond Registrar's Certificate of Authentication on the Bonds shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within mentioned Bond Ordinance and is one of the Limited Tax General Obligation Variable Rate Demand Bonds, 1997 Series D, of King County, Washington dated \_\_\_\_\_, 1997.

A WASHINGTON STATE FISCAL  
AGENCY, as Bond Registrar

By \_\_\_\_\_  
Authorized Officer



12686

\$150,000,000  
KING COUNTY, WASHINGTON,  
LIMITED TAX GENERAL OBLIGATION VARIABLE RATE DEMAND BONDS,  
1997 Series D (Baseball Stadium)

REMARKETING AGREEMENT

April \_\_, 1997

KING COUNTY COUNCIL  
King County Courthouse, 12th Floor  
Seattle, Washington 98104

Dear Councilmembers:

This is to confirm the appointment of the undersigned, Smith Barney Inc. (including its successors, "Smith Barney" or the "Remarketing Agent") by King County, Washington (the "County"), as remarketing agent (a) in connection with the offering and sale from time to time in the secondary market of the County's Limited Tax General Obligation Variable Rate Demand Bonds, 1997 Series D (Baseball Stadium) (the "Bonds") while the Bonds bear interest at a Variable Rate (the "Variable Rate Series D Bonds"), and (b) together with the underwriters listed on Schedule 1 attached hereto and incorporated herein by this reference (the "Underwriters"), in connection with the offering and sale of the Bonds upon conversion to a Fixed Rate (the "Fixed Rate Series D Bonds"). The Bonds shall be issued in accordance with Chapters 36.67 and 39.46 of the Revised Code of Washington and the County Charter and Chapter 1, Laws of 1995, 3<sup>rd</sup> Sp. Sess. (together, the "Act"). The Bonds are authorized and being issued under the provisions of Ordinances Nos. 12000, 12593 and \_\_\_\_\_ of the King County Council (the "County Council") adopted on October 23, 1995, January 6, 1997 and April 2, 1997, respectively (together, the "Bond Ordinance"). Principal of, premium, if any, and interest on the Bonds are payable at either of the principal offices of the fiscal agencies of the State of Washington (the "State") in Seattle, Washington or New York, New York as bond registrar and paying agent, currently Wells Fargo Bank, National Association, and The Bank of New York (or such other fiscal agency or agencies as the County Finance Director may from time to time designate). Payments of principal and interest on the Bonds will be secured by an

irrevocable letter of credit (the "Letter of Credit") issued by Bank of America National Trust and Savings Association doing business as Seafirst Bank (the "Bank") pursuant to the terms of a Reimbursement Agreement, dated as of April 1, 1997, by and between the Bank and the County (the "Reimbursement Agreement"). The proceeds of the Bonds will be deposited by the County into its Equipment and Building Acquisition Fund and immediately transferred to the Washington State Major League Baseball Stadium Public Facilities District (the "PFD") for deposit with The Bank of New York (the "Escrow Agent") pursuant to the terms of an Escrow Fund Deposit Agreement by and between the PFD and the Escrow Agent (the "Escrow Agreement"). The Bonds are being issued for such purposes and shall otherwise be as described in the Bond Ordinance and the Official Statement distributed in connection with the public offering and sale of the Variable Rate Series D Bonds (the "Variable Rate Official Statement") or the Official Statement distributed in connection with the remarketing of the Fixed Rate Series D Bonds (the "Fixed Rate Official Statement"). The Variable Rate Official Statement, including the Appendices thereto, any documents incorporated therein by reference, and any supplements or amendments thereto, together with the Fixed Rate Official Statement, including the Appendices thereto, any documents incorporated therein by reference, and any supplements or amendments thereto, are collectively referred to herein as the "Official Statement."

All capitalized terms used herein and not defined herein shall have the meanings specified in the Bond Ordinance or in the Official Statement.

## ARTICLE I

### GENERAL PROVISIONS

1.1 Appointment of Remarketing Agent. The County has appointed Smith Barney and Smith Barney hereby accepts such appointment, subject to the terms and conditions herein contained, as remarketing agent (a) in connection with the determination from time to time of the rate or rates of interest to be borne by the Bonds as provided in the Bond Ordinance, with the offering and sale of the Variable Rate Series D Bonds from time to time in the secondary market subsequent to the initial offering, issuance and sale of the Variable Rate Series D Bonds, and (b) together with the Underwriters, in connection with the offering and sale of the Fixed Rate Series D Bonds upon a conversion of the interest rate thereon to a fixed rate or rates to maturity as provided herein and in the Bond Ordinance.

1.2 Terms of Bonds. As more fully described in the Bond Ordinance, the Bonds will be issuable, subject to the terms and conditions of the Bond Ordinance, in the form of fully registered Bonds in the denominations as provided in the Bond Ordinance and initially will be in book-entry form.

**1.3 Responsibilities of the Remarketing Agent.**

(a) Except as provided in Section 3.1 hereof, the Remarketing Agent shall not act or be deemed to act as underwriter for the Bonds tendered or deemed tendered, or for the Bank Bonds, and shall in no way be obligated to advance its own funds to purchase any Bonds tendered or deemed tendered or any Bank Bonds. The Remarketing Agent shall incur no liability to the County or any other party for its actions as Remarketing Agent pursuant to the terms hereof and of the Bond Ordinance except for its own negligence or willful misconduct. The Remarketing Agent shall not be liable to the County on account of the failure of any person to whom the Remarketing Agent has sold a Bond to pay for it or to deliver any document in respect of such sale.

(b) In connection with the performance of its duties hereunder, the Remarketing Agent agrees to keep such books and records with respect to the remarketing of the Bonds as shall be consistent with prudent industry practice and to make such books and records with respect to the remarketing of the Bonds available for inspection by the County, the Bank, the Bond Registrar and the Tender and Paying Agent during regular business hours upon reasonable prior notice.

(c) Notwithstanding any provision of this Remarketing Agreement to the contrary, the Remarketing Agent shall have no obligation (i) to remarket any Bonds, including Bank Bonds, if a "Default," as defined in the Reimbursement Agreement (an "Event of Default"), has occurred and is continuing and (ii) to remarket any Bonds upon the mandatory tender for purchase thereof, other than as provided herein; or (iii) to remarket any Bonds purchased by the County.

(d) Bonds shall be remarketed only in Authorized Denominations and subject in all respects to the terms and conditions of the Bond Ordinance and this Remarketing Agreement.

(e) The Remarketing Agent shall use its reasonable best ongoing efforts to sell Bank Bonds, at a price equal to the principal amount of such Bank Bonds plus accrued interest, if any, thereon to the date of sale (calculated at the rates such Bonds would have borne had they not been Bank Bonds).

(f) The County and the Remarketing Agent agree that the responsibilities of the Remarketing Agent hereunder in connection with Bonds will include (i) the soliciting of purchases of Bonds from investors that customarily purchase tax-exempt securities in large denominations, (ii) effecting and processing such purchases, (iii) billing and receiving payment for Bonds purchased, (iv) directing the proceeds from the secondary sale of the Bonds to be transferred to the Tender and Paying Agent, and (v) performing such other related functions as

may be reasonably requested by the County and agreed to by the Remarketing Agent as specified in the Bond Ordinance.

(g) The County and the Remarketing Agent agree that, so long as Smith Barney shall be Remarketing Agent under this Remarketing Agreement, Smith Barney will determine the interest rate, as provided in the Bond Ordinance or, with respect to the initial interest rate, the Bond Purchase Contract relating to the Bonds (the "Bond Purchase Contract") by and between the County and Smith Barney, and the Remarketing Agent will promptly notify the Tender Agent and Paying Agent, the Bank, and the County of such rates determined as provided in the Bond Ordinance and the Bond Purchase Contract.

#### **1.4 Responsibilities of the County.**

(a) The County agrees, at the County's expense, to take all steps reasonably requested by the Remarketing Agent to enable the Remarketing Agent to comply with requirements, if any, of Rule 15c2-12, as originally promulgated and thereafter amended from time to time by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended and as applicable to the Bonds.

(b) The County agrees to furnish the Remarketing Agent with as many copies as the Remarketing Agent may reasonably request of the Official Statement, as the same may be supplemented or amended from time to time, and such other information with respect to the County, the Bank, the Bond Ordinance and the Bonds as the Remarketing Agent shall reasonably request from time to time. The County hereby authorizes the Official Statement and the information contained therein to be used in connection with the remarketing of the Bonds by the Remarketing Agent.

(c) If, at any time during the term of this Remarketing Agreement, any event or condition known to the County shall occur or any fact shall become known which might result in the Official Statement containing any untrue, incorrect or misleading statement of a fact or omitting to state a fact which an actual or prospective investor in the Bonds might deem material to his or her decision to purchase or hold the Bonds, (i) the County will promptly notify the Remarketing Agent in writing of the circumstances and details of such event or condition, (ii) if, in the reasonable opinion of the Remarketing Agent or the County, such event or condition requires the preparation and publication of an amendment or supplement to the Official Statement, the County, at its expense, will promptly prepare or cause to be prepared an appropriate amendment or supplement thereto so that the statements in the Official Statement as so amended or supplemented will not contain any untrue, incorrect or misleading statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the

statements made therein, in the light of the circumstances under which they were made, not misleading, in a form and manner approved by the Remarketing Agent, and (iii) the County shall take all necessary action to approve such supplement or amendment.

(d) The County shall provide to the Remarketing Agent as many copies as the Remarketing Agent may reasonably request of all financial and other information provided to the Bank pursuant to the provisions of the Bond Ordinance or the Reimbursement Agreement at such times as are required by the Bond Ordinance and the Reimbursement Agreement.

1.5 Representations, Warranties, Covenants and Agreements of the County. The County, by its acceptance hereof, represents, warrants, covenants, and agrees with the Remarketing Agent as follows:

(a) The County shall provide the Remarketing Agent with not less than 20 Business Days' prior written notice of the termination, expiration or substitution of the Letter of Credit or any other liquidity facility for the Bonds. The County shall give the Remarketing Agent telephonic notice, promptly confirmed in writing or facsimile, as soon as practicable following the occurrence of an Event of Default.

(b) The representations, warranties, covenants and agreements of the County set forth in Section 4 of the Bond Purchase Contract are hereby incorporated herein by reference and are made to and with the Remarketing Agent as if fully set forth herein.

(c) All of the representations and warranties of the County in this Remarketing Agreement shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of the Remarketing Agent, (ii) delivery of and payment for any Bonds hereunder, and (iii) termination of this Remarketing Agreement or the Bond Purchase Contract.

1.6 Representations of the Remarketing Agent. The Remarketing Agent represents to the County as follows:

(a) The Remarketing Agent has corporate power and authority to take all actions required to be taken by it by or under, and to perform and observe, the agreements on its part contained in this Remarketing Agreement.

(b) This Remarketing Agreement when executed and delivered by the parties hereto will constitute a valid and binding obligation of the Remarketing Agent enforceable against the Remarketing Agent in accordance with its terms, except as the enforcement hereof may be limited by bankruptcy, insolvency,

reorganization, moratorium or other laws, judicial decisions or principles of equity relating to or affecting the enforcement of creditors' rights or contractual obligations generally.

1.7 Conditions To Remarketing Agent's Obligations. The obligations of the Remarketing Agent under this Remarketing Agreement have been undertaken in reliance on, and shall be subject to, the due performance by the County of the obligations and agreements to be performed by the County hereunder and under the Bond Ordinance and the Reimbursement Agreement and to the accuracy of and compliance with the representations, warranties, covenants and agreements of the County contained herein and in the Bond Purchase Contract, on and as of the date of delivery of this Remarketing Agreement and on and as of each date on which Bonds are to be offered and sold pursuant to this Remarketing Agreement. The obligations of the Remarketing Agent hereunder with respect to each date on which Bonds are to be offered and sold pursuant to this Remarketing Agreement are also subject, in the discretion of the Remarketing Agent, to the following further conditions:

(a) At or prior to the date of Closing under the Bond Purchase Contract, the Remarketing Agent shall have received all closing documents required by and delivered pursuant to the Bond Purchase Contract;

(b) The Bond Ordinance, the Letter of Credit or any other credit or liquidity facility provided in accordance with the Bond Ordinance shall be in full force and effect for the respective terms thereof and shall not have been amended, modified or supplemented in any way which would materially and adversely affect the Bonds, except as may have been agreed to in writing by the Remarketing Agent, and there shall be in full force and effect such additional resolutions, agreements, certificates (including such certificates as may be required in order to establish the exclusion of interest on the Bonds from gross income for federal income tax purposes) and opinions as shall be necessary to effect the transactions contemplated hereby, which resolutions, agreements, certificates and opinions shall be reasonably required by, and satisfactory in form and substance to, counsel to the Remarketing Agent; and

(c) There shall be no material adverse change in the operations or financial condition of the Bank or the County since the date of the Variable Rate Official Statement, or any amendment or supplement thereto that has been approved by the Remarketing Agent pursuant to Section 1.4(c) hereof; and no Event of Default shall have occurred and be continuing and no event shall have occurred and be continuing which, with the passage of time or giving of notice or both, would constitute such an Event of Default.

**1.8 Term and Termination of Remarketing Agreement.**

(a) This Remarketing Agreement shall become effective upon execution by the Remarketing Agent and the County, and shall continue in full force and effect with respect to the Bonds to and including May 15, 1997, unless extended by agreement of the parties hereto, and the extinguishment of all claims hereunder, subject to the right of the Remarketing Agent to terminate this Agreement at any time upon the giving of not less than 60 days' prior written notice to the County, the Bank (provided the Letter of Credit is then in effect) and the Tender and Paying Agent. The Remarketing Agent may be removed or this Remarketing Agreement may be terminated by the County upon 60 days' prior written notice, but only with the prior written consent of the Bank, so long as the Letter of Credit is in effect. Notwithstanding the foregoing, under no circumstances may Smith Barney terminate this Remarketing Agreement until the Variable Rate Series D Bonds have been converted to Fixed Rate Series D Bonds.

(b) In addition to the provisions of paragraph (a) of this Section 1.18, the Remarketing Agent may suspend or terminate its obligations under this Remarketing Agreement at any time by notifying the County, the Tender and Paying Agent, and the Bank (provided the Letter of Credit is then in effect) in writing or by telegram, telex or other electronic communication of its election so to do, during the period of occurrence of any of the following:

(i) Legislation shall have been introduced in or enacted by the Congress of the United State or adopted by either House thereof, or legislation pending in the Congress of the United States shall have been amended, or legislation shall have been recommended for passage (by press release, other form of notice or otherwise) by the President of the United States, the Treasury Department of the United States, the Internal Revenue Service or Chairman or ranking minority member of the U.S. Senate Committee on Finance or the U.S. House of Representatives Committee on Ways and Means or legislation shall have been proposed for consideration by either such Committee by any member thereof or legislation shall have been favorably reported for passage to either House of Congress of the United States by a committee of such House to which legislation has been referred for consideration, or a decision by a court of the United States shall be rendered or a ruling, regulation or official statement by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency shall be made, with respect to Federal taxation of revenues or with respect to other income of the general character expected to be derived under the Bond Ordinance by the County or upon interest received on securities of the general character of the Bonds or which would have the effect of changing the Federal income tax

consequences of receipt of interest on securities of the general character of the Bonds in the hands of the owners thereof; or

(ii) Legislation shall be introduced by committee, by amendment or otherwise, in, or be enacted by, the House of Representatives or the Senate of the Congress of the United States, or a decision by a court of the United States shall be rendered, or a stop order, ruling, regulation or official statement by, or on behalf of, the United States Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter shall be made or proposed, to the effect that the offering, sale or remarketing of obligations of the general character of the Bonds, as contemplated hereby, is or would be in violation of any provisions of the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect, or otherwise prohibiting the offering, sale or remarketing of obligations of the general character of the Bonds, or the Bonds, as contemplated hereby, or of requiring the registration or qualification of the Bond Ordinance or the Bonds or sales thereof under any of said Acts; or

(iii) Any information shall have become known, which, in the reasonable opinion of the Remarketing Agent, makes untrue, incorrect or misleading in any material respect any statement or information contained in the Official Statement, as the information contained therein has been supplemented or amended by other information furnished in accordance with Section 1.4(c) hereof, or causes the Official Statement, as so supplemented or amended, to contain an untrue, incorrect or misleading statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading; or

(iv) Except as provided in clauses (i) and (ii) of this Section 1.8(b) any legislation, resolution, ordinance, rule or regulation shall be introduced in, or be enacted by any federal governmental body, department or agency of the United States or the State of New York or the State of Washington or a decision by any court of competent jurisdiction within the United States or the State of New York or the State of Washington shall be rendered which, in the reasonable opinion of the Remarketing Agent, materially adversely affects the marketability of the Bonds; or

(v) Additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority purporting to have jurisdiction regarding the



trading of the Bonds or by any national securities exchange, which in the reasonable opinion of the Remarketing Agent, materially adversely affects the marketability of the Bonds or any of them; or

(vi) Any Washington State or federal governmental authority, shall impose, as to the Bonds, or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force; or

(vii) A general banking moratorium shall have been established by the federal, Washington State, or New York State authorities; or

(viii) There shall have occurred the outbreak of hostilities, or any escalation of existing hostilities, or the declaration by the United States of a national emergency or war, or any other national or international calamity or crisis, which in the reasonable judgment of the Remarketing Agent has a material adverse effect on the marketability of the Bonds; or

(ix) An event, including, without limitation, the bankruptcy or default of any other issuer of or obligor on the obligations of the general character of the Bonds or on tax-exempt commercial paper, shall have occurred which, in the reasonable opinion of the Remarketing Agent, makes the marketability of the Bonds at interest rates not in excess of the Maximum Rate permitted by the Bond Ordinance impracticable over an extended period of time; or

(x) The long-term rating of any of the Bonds or the Bank shall have been withdrawn, suspended or downgraded below "AA" by Standard & Poor's Ratings Group or "Aa2" by Moody's Investors Service, Inc., or the County shall have been placed on "Credit Watch" or any similar designation as an entity whose creditworthiness is being reviewed with negative implications, in each case after the date hereof, and the effect of which, in the reasonable opinion of the Remarketing Agent, is to affect materially and adversely the market prices of the Bonds or the Remarketing Agent's ability to remarket the Bonds at a price of par; or

(xi) The short-term credit rating of the Bonds shall have been withdrawn, suspended or reduced below "A-1" by Standard & Poor's Ratings Group or "VMIG-1" by Moody's Investors Service, Inc.; or

(xii) Any other event shall have occurred or condition shall exist which in the reasonable opinion of the Remarketing Agent has a material adverse effect on the marketability of the Bonds.

## **1.9 Payment of Fees and Expenses.**

(a) In consideration of the services to be performed by the Remarketing Agent under this Agreement, the County agrees to pay to the Remarketing Agent (1) a fee of \$135,000, which amount shall be paid at the Closing of the Bonds; and (2) for so long as there are Variable Rate Series D Bonds beyond May 15, 1997, an annual fee equal to eight one hundredths of one percent (.08%) of the weighted average daily principal amount of the Bonds outstanding, payable by the County in arrears, within sixty (60) days after receipt of an invoice therefor from the Remarketing Agent, such invoice to be sent quarterly by the Remarketing Agent.

(b) The County shall bear all reasonable expenses incident to the performance of the obligations of the County and the Remarketing Agent hereunder, including but not limited to: (i) the cost of printing and preparation for printing or other reproduction (for distribution in connection with any offering of Bonds hereunder) and distribution of the Official Statement or any amendment or supplement thereof, any subsequent Official Statement relating to the Bonds and any additional material described in and/or furnished pursuant to Section 1.4 hereof; (ii) the fees and disbursements of counsel to the County and any other experts or consultants retained by the County; (iii) the fees and disbursements of counsel to the Remarketing Agent in connection with the preparation and review of any amendment or supplement to the Official Statement or any additional material described in and/or furnished pursuant to Section 1.4 hereof; and (iv) the fees and expenses of each securities rating agency in connection with the Bonds; it being understood that none of such expenses shall be paid by the Remarketing Agent. The County shall make all such payments directly to the Remarketing Agent or, at the Remarketing Agent's directions, to the person or to the entity to whom or to which they are due. The County shall reimburse the Remarketing Agent for all costs and out-of-pocket expenses actually incurred by the Remarketing Agent in connection with the performance of its obligations hereunder. The County will pay all such expenses within ten (10) days after receipt of an invoice from the Remarketing Agent.

(c) Notwithstanding the foregoing, the County shall be under no obligation to make the payments to the Remarketing Agent described in paragraphs (a) and (b) of this Section 1.9 during any period in which the Remarketing Agent has terminated or suspended its obligations pursuant to Section 1.8 hereof; provided, however, that such fees shall be pro-rated to the extent there has been performance of the obligations of the Remarketing Agent hereunder for less than a full period.

**1.10 Indemnification.**

(a) In connection with any remarketing of the Bonds, the County shall, to the extent permitted by applicable law, indemnify and hold harmless the Remarketing Agent and its officers, directors and employees and each person, if any, who controls the Remarketing Agent within the meaning of the Securities Exchange Act of 1934, as amended, from and against any and all judgments, losses, claims, damages or liabilities (or actions in respect thereof) to which any such person may become subject, insofar as such judgments, losses, claims, damages, or liabilities (or actions in respect thereof) arise out of, or are based upon (i) any allegation that any information contained in the Official Statement, as amended or supplemented, includes any untrue statement of a material fact or omits to state any material fact necessary in order to make statements therein in light of the circumstances under which they were made, not misleading (except for information furnished by the Remarketing Agent expressly designated for use in the Official Statement under the heading "Underwriting"), or (ii) the representations and warranties contained in Section 1.5 hereof being untrue at the time of remarketing of any Bond pursuant hereto; and will reimburse the Remarketing Agent and each such person for any legal or other expenses reasonably incurred by the Remarketing Agent and such person in investigating, defending or preparing to defend any such action or claim. Notwithstanding the foregoing, the County shall not be obligated to indemnify the Remarketing Agent, its officers, directors and employees or any person, if any, who controls the Remarketing Agent within the meaning of the Securities Exchange Act of 1934, as amended, under the circumstances described above against any judgments, losses, claims, damages or liabilities caused by the negligence or willful acts of the Remarketing Agent, its officers, directors and employees or any person, if any, who controls the Remarketing Agent within the meaning of the Securities Exchange Act of 1934, as amended, unless such judgments, losses, claims, damages or liabilities are caused by or resulting from the concurrent negligence of the County and the Remarketing Agent, and in such event, the County shall be obligated to indemnify the Remarketing Agent, but only to the extent of the County's negligence.

(b) Promptly after receipt by the indemnified party of notice of the commencement of any action, the indemnified party shall, if a claim in respect thereof is to be made against the County under subsection (a) above, notify the County in writing of the commencement thereof; but the omission to so notify the County shall not relieve the County from any liability which it may have to the indemnified party otherwise than under section (a) above. In case any such action shall be brought against the indemnified party and the indemnified party shall notify the County of the commencement thereof, the County shall be entitled to participate therein and, to the extent that it wishes, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party and after notice from the County to the indemnified party of its election to so assume the defense

thereof, the County shall not be liable to such indemnified party under subsection (a) above for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable out-of-pocket costs of any investigation; provided, however, that if the named parties to any such action (including any impleaded parties) include both the indemnified party (or its officers, directors, agents or employees or any person so controlling such indemnified party) and the County, and the indemnified party (or such officers, directors, agents or employees or any person so controlling such indemnified party) shall have reasonably concluded that there may be one or more legal defenses available to it which are different from or additional to those available to the County, such indemnified party (or such officers, directors, agents or employees or such person controlling such indemnified party) shall have the right to select separate counsel to assume such legal defenses and otherwise participate in the defense of such action on behalf of the indemnified party (or such officers, directors, agents, or employees or such person so controlling such indemnified party), and in such event the said fees and expenses of the indemnified party in defending such action shall be borne by the indemnified party. The indemnity agreements contained in this Section 1.10 shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of the Remarketing Agent, or the delivery of and any payment for any Bonds hereunder, and shall survive the termination or cancellation of this Remarketing Agreement.

1.11 Dealing in Securities. Smith Barney, in its individual capacity and not as Remarketing Agent hereunder, either as principal or agent, may buy, sell, own, hold and deal in any of the Bonds, and may join in any action which any Owner of Bonds may be entitled to take with like effect as if it did not act in any capacity hereunder. Smith Barney, in its individual capacity and not as Remarketing Agent hereunder, either as principal or agent, may also engage in or be interested in any financial or other transaction with the County and may act as depositor, trustee, or agent for any committee or body of Owners of Bonds or other obligations of the County as freely as if it did not act in any capacity hereunder.

1.12 Remarketing Agent as Independent Contractor. Nothing in this Agreement or in the Bond Ordinance shall be construed as creating any agency relationship between the County and the Remarketing Agent; it being expressly understood by the County and the Remarketing Agent that, in performing its duties hereunder and in the Bond Ordinance, the Remarketing Agent shall be acting as an independent contractor with respect to the County.

1.13 No Extinguishment. It is the express intention of the parties hereto that no purchase, sale or transfer of any Bonds, as herein provided, shall constitute or be construed to be the extinguishment of any Bond or the indebtedness represented thereby or the reissuance of any Bond or the refunding of any indebtedness represented thereby.

## ARTICLE II

## PROVISIONS APPLICABLE TO VARIABLE RATE SERIES D BONDS

2.1 Responsibilities of Remarketing Agent.

(a) In its capacity as Remarketing Agent, upon the optional or mandatory tender for purchase of any Variable Rate Series D Bond or Variable Rate Series D Bonds pursuant to the Bond Ordinance, Smith Barney shall exercise its reasonable best efforts to solicit purchases of such Variable Rate Series D Bonds at a price equal to the principal amount thereof plus accrued interest, if any.

(b) The County agrees that, unless this Remarketing Agreement has been previously terminated pursuant to the terms hereof, the Remarketing Agent shall act as exclusive remarketing agent with respect to the Variable Rate Series D Bonds on the terms and conditions herein contained at all times, including any remarketing of Bank Bonds.

2.2 Liabilities of the Remarketing Agent. The Remarketing Agent is obligated hereunder only to use its reasonable best efforts to remarket any Variable Rate Series D Bonds, including Bank Bonds.

## ARTICLE III

PROVISIONS APPLICABLE WITH RESPECT TO  
REMARKETING OF BONDS UPON FIXED RATE CONVERSION3.1 Optional Conversion to Fixed Rate.

(a) Pursuant to the Bond Ordinance, the County may elect that the Bonds shall be converted to Fixed Rates until their maturity and the County Finance Director has been authorized to make such election on behalf of the County at any time after Closing which election shall cause the Bonds to be marketed at Fixed Rates such that the average ratio of "Tax Exempt Available Revenues, Excluding Lottery Revenues" (as set forth in Schedule 2 attached hereto and incorporated herein by this reference) to annual debt service on the Series A-1 Bonds, the Series B Bonds and the Series D Bonds (less an amount equal to the projected lottery revenues for such year as set forth in Schedule 2 attached hereto and incorporated herein by this reference) shall equal at least 1.2:1.0 for the years 1999 through 2016 (the "Coverage Requirements"). The County hereby agrees that in no case shall such election be made such that the remarketing of the Bonds upon conversion to Fixed Rates will occur after May 7, 1997, or that the effective date of such conversion will occur after May 15, 1997.

(b) Subject to (i) satisfaction of the conditions set forth in Section 7 of the Bond Purchase Contract for the Series B Bonds and the Series C Bonds at or prior to the closing therefor, and (ii) satisfaction of the conditions set forth in Section 7 of the Bond Purchase Contract on and as of the date of the conversion, which are incorporated by reference herein (with references therein to the Closing being deemed to refer to the conversion date), and upon not less than 24 hours' prior written notice, the Remarketing Agent and the Underwriters, jointly and severally, agree: (A) to remarket some or all of the Fixed Rate Series D Bonds to the public and/or the Remarketing Agent (1) at such interest rates and for such principal amounts not to exceed \$150,000,000 and (2) in any combination of serial bonds and term bonds maturing not later than December 1, 2016, as the Remarketing Agent shall determine within the Coverage Requirements; and (B) to deliver to the Tender and Paying Agent the sum of \$150,000,000 in respect thereof.

(c) The County shall provide the Remarketing Agent with not less than 24 hours' prior written notice of the County's election to convert the Bonds to Fixed Rates pursuant to Section 2.03(d) of the Bond Ordinance; provided, however, that the County shall be deemed to have made such election and to have given the Remarketing Agent such notice to convert the Bonds to Fixed Rates on May 7, 1997, if the Remarketing Agent has not received such notice prior to May 7, 1997.

3.2 Continuing Disclosure. The County will undertake, pursuant to the Bond Ordinance, to provide certain annual financial information and notices of the occurrence of certain events, if material, pursuant to section (b)(5) of Rule 15c2-12. An accurate description of this undertaking will be set forth in the Fixed Rate Official Statement.

3.3 Payment of Fee Upon Conversion. In consideration of the services to be performed by the Remarketing Agent in connection with the remarketing of the Bonds upon their conversion to Fixed Rate Bonds, the County agrees to pay to the Remarketing Agent a fee of \$643,626.25, which fee shall be due and payable upon the conversion of such Bonds.

## ARTICLE IV

### GENERAL MISCELLANEOUS PROVISIONS

4.1 Notice. Except as otherwise specifically provided in this Remarketing Agreement, all notices, demands and formal actions under this Remarketing Agreement shall be in writing and mailed, telegraphed or delivered, as follows:

**The Remarketing Agent:**

Smith Barney Inc.  
 390 Greenwich Street  
 New York, New York 10013  
 Attention: Manager, Short-Term Finance Group

with a copy to:

Smith Barney Inc.  
 601 Union Street, Suite 3400  
 Seattle, Washington 98101  
 Attention: Mr. Jerry L. Bobo

**The County:**

King County, Washington  
 County Administration Building, 6th Floor  
 500 Fourth Avenue  
 Seattle, Washington 98104  
 Attention: Director of Finance

**The Tender and Paying Agent:**

The Bank of New York  
 101 Barclay Street, 21W  
 New York, New York 10286  
 Attention: Lenore Brown, Corporate Trust Trustee  
 Administration

The notice address for the Bank shall be the notice address provided for the Bank in the Reimbursement Agreement. Each party may, by notice given under this Remarketing Agreement, designate other addresses to which subsequent notices, requests, reports or other communications shall be directed.

**4.2 Assignment.** The obligations of the respective parties hereto may not be assigned or delegated to any other person without the consent of the other parties hereto. This Remarketing Agreement will inure to the benefit of and be binding upon the County and the Remarketing Agent and their respective successors and assigns, and will not confer any rights upon any other person, other than (i) persons, if any controlling the Remarketing Agent within the meaning of the Securities Exchange Act of 1934, as amended, (ii) the Bank and (iii) with respect to provisions relating to duties imposed on the Remarketing Agent pursuant to the Bond Ordinance and assumed by the Remarketing Agent hereunder. The

terms "successors" and "assigns" shall not include any purchaser of any of the Bonds merely because of such purchase.

4.3 Headings. Section headings have been inserted in this Remarketing Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Remarketing Agreement and will not be used in the interpretation of any provisions of this Remarketing Agreement.

4.4 Severability. If any provision of this Remarketing Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provisions of any constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Remarketing Agreement invalid, inoperative or unenforceable to any extent whatsoever.

4.5 Counterparts. This Remarketing Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document. Although this Agreement is dated for convenience and for the purpose of reference as of the date first above written, the actual date or dates of execution by the parties hereto are the respective dates set forth under their signatures, and this Remarketing Agreement shall be effective on the latest of such dates.

4.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.



4.7 Amendment. This Remarketing Agreement may be amended from time to time by an instrument in writing executed by the parties hereto, but without the consent of the holders of Bonds then outstanding. A copy of any amendment to this Remarketing Agreement will be provided promptly by the County to the Tender and Paying Agent and the Bank.

SMITH BARNEY INC., as Remarketing Agent

By: \_\_\_\_\_  
Director

Accepted and agreed to this \_\_\_\_ day of April,  
1997

KING COUNTY, WASHINGTON

By: \_\_\_\_\_  
Brad Duerr  
Finance Director

## **SCHEDULE 1**

**J.P. Morgan & Co.**

**E.J. De La Rosa & Co., Inc.**

**Siebert Brandford Shank Inc.**

# Schedule 2

	Rest./Tavern Tax Revenues	Car Rental Tax Revenues	Sales Tax Credit Revenues	Tax-Exempt Available Revenues*	Series A-1 Debt Service	Series B Debt Service	Series D Debt Service	Less: D/S Paid From Lottery Revenues	Total Debt Service	Debt Service Coverage**
1999	11,108,593	4,705,865	5,112,290	20,926,748	333,113	9,136,670		(3,374,592)		
2000	11,530,719	4,978,806	5,306,557	21,816,082		9,136,670		(3,509,576)		
2001	11,980,417	5,272,555	5,513,513	22,766,485		9,136,670		(3,649,959)		
2002	12,459,634	5,588,909	5,734,053	23,782,596		9,136,670		(3,795,957)		
2003	12,970,479	5,929,832	5,969,149	24,869,461		9,136,670		(3,947,795)		
2004	13,502,269	6,291,552	6,213,885	26,007,705		9,136,670		(4,105,707)		
2005	14,055,862	6,675,336	6,468,654	27,199,852		9,136,670		(4,269,935)		
2006	14,632,152	7,082,532	6,733,869	28,448,553		9,136,670		(4,440,733)		
2007	15,232,070	7,514,566	7,009,957	29,756,594		9,136,670		(4,618,362)		
2008	15,856,585	7,972,955	7,297,365	31,126,906		9,136,670		(4,803,097)		
2009	16,506,705	8,459,305	7,596,557	32,562,568		9,136,670		(4,995,221)		
2010	17,183,480	8,975,323	7,908,016	34,066,819		9,136,670		(5,195,029)		
2011	17,888,003	9,522,817	8,232,245	35,643,065		20,451,670		(5,402,831)		
2012	18,621,411	10,103,709	8,569,767	37,294,887		36,696,058		(5,618,944)		
2013	19,384,889	10,720,036	8,921,127	39,026,052		38,364,878		(5,843,701)		
2014	20,179,669	11,373,958	9,286,894	40,840,521		40,106,250		(6,077,450)		
2015	21,007,036	12,067,769	9,667,656	42,742,461		41,935,350		(6,320,548)		
2016	3,644,721	2,133,984	1,677,338	7,456,043		6,211,600		0		
<b>TOTAL</b>	<b>267,744,696</b>	<b>135,369,808</b>	<b>123,218,893</b>	<b>526,333,397</b>	<b>333,113</b>	<b>293,405,845</b>				

\*Does not include Lottery Revenues  
 \*\*Tax-Exempt Available Revenues divided by Total Debt Service.

Average D/S Coverage (1999-2016):

1.20

12686



**AMENDMENT NO. 5 TO AGREEMENT BETWEEN KING COUNTY  
AND THE WASHINGTON STATE MAJOR LEAGUE  
BASEBALL STADIUM PUBLIC FACILITIES DISTRICT**

This Amendment No. 5 to the March 18, 1996 Financing Agreement ("Amendment No. 5") by and between King County (the "County") and the Washington State Major League Baseball Stadium Public Facilities District (the "PFD"), collectively referred to as the "Parties," shall be effective upon the authorized signatures of both Parties.

**FINDINGS**

The County and the PFD entered into a Financing Agreement dated March 18, 1996 ("Financing Agreement") providing for County assistance and cooperation in certain aspects of the development of a major league baseball stadium in the City of Seattle (the "Ballpark"); and

The Financing Agreement has been periodically amended by the Parties to more specifically address aspects of their cooperation and to provide further County assistance for the project.

In accordance with Paragraph 11 of the Financing Agreement, the County and the PFD wish to amend the Financing Agreement in order to:

- (1) establish the procedures under which the proceeds of County bond funds issued for Ballpark funding under applicable State law shall be provided to the PFD; and
- (2) establish the process and commitments under which principal and interest payments on County bonds issued for the construction of the Ballpark parking structure will be made from Ballpark parking or other revenues provided by The Baseball Club of Seattle L.P. (the "Club") through the PFD under the Ballpark Operations and Lease Agreement between the PFD and the Club (the "Lease") to the extent that specific tax revenues are insufficient to make such payments.

NOW, THEREFORE, in consideration of the promises, covenants and considerations set forth herein, the County and the PFD hereby agree to amend the Financing Agreement to add the following new subparagraphs to section 4:

**4.8 Transfer of Bond Proceeds to PFD; Safeguarding by PFD; Release from Escrow to PFD Accounts.**

The PFD agrees to undertake the Ballpark project consistent with State law and County Ordinance with County Ballpark bond proceeds. It further agrees to safeguard such proceeds provided to it for this purpose. To that end, the PFD agrees to enter into an Escrow Deposit Agreement with The Bank of New York, substantially in the form of the attachment hereto. The PFD further agrees to immediately deposit all proceeds of the County's bonds it receives from the

County under Section 4.05 of Ordinance No. \_\_\_\_\_ with The Bank of New York pursuant to such Escrow Deposit Agreement for safekeeping until such proceeds may be released to PFD accounts for use in the construction of the Ballpark. The County represents that the proceeds transferred to the PFD together with earnings thereon will be sufficient to provide monies adequate to pay off the bonds in the event of an extraordinary redemption. In the event such proceeds and earnings thereon are insufficient, the County will provide to the PFD any additional funds necessary to pay off the bonds.

The PFD authorizes and directs the County, as PFD Treasurer, to establish two PFD bond proceeds funds, one for proceeds of tax-exempt bonds and one for proceeds of taxable bonds. When bond proceeds are available for release from the Escrow Fund in accordance with Section 4.05 of Ordinance No. \_\_\_\_\_ and the Escrow Deposit Agreement, all available bond proceeds, less allocable bond issuance costs, shall be transferred to the appropriate District fund. Upon release of the bond proceeds from the Escrow Fund, the District will immediately direct the transfer of funds to the County to fully repay outstanding interfund loans plus accrued interest to the date of repayment and any accrued interest on the bonds. As PFD Treasurer, the County will monitor and account to the District for interest earnings and perform necessary arbitrage calculations associated with retention of bond proceeds on behalf of the District. The PFD agrees not to take any action or permit any action to be taken that would cause the interest in the tax-exempt bonds (Series A-1, Series B and Series D) to be included in gross income for federal income tax purposes.

The PFD agrees that, except for the repayment of County loans as provided in this Amendment No. 5, it shall not expend or encumber, or obligate itself to expend or encumber, any of the bond proceeds released from escrow unless and until it has received from the Club a formal written acknowledgment that all of the conditions set forth in Article 24.1 of the Ballpark Operations and Lease Agreement, including without limitation the conditions set forth in subsections (a) through (g) of that Article, have either been met or have been waived by the Club as a basis for terminating either the Ballpark Operations and Lease Agreement or the Development Agreement and that neither the Club nor the PFD have any termination rights pursuant to Article 24 of the Ballpark Operations and Lease Agreement or pursuant to the Development Agreement. In the event that such termination of the Ballpark Operations and Lease Agreement or termination of the Development Agreement occurs prior to the execution of such an acknowledgment, the PFD agrees that all available bond proceeds shall be returned to the County immediately upon request by the County.

4.9 Parking Bonds. Specifically with respect to the proceeds of the County's Series A-2 Bonds and Series C Bonds, transfer of available bond proceeds to the PFD bond proceeds fund is conditioned upon PFD certification to the County that the PFD has entered into a Parking Facility Financing and Construction Agreement with The Baseball Club of Seattle, L.P. (the "Club"), confirming the obligation of the Club to make the payments described in Section 4.03(b)(2) of Ordinance No. \_\_\_\_\_ and as required under Section 3.7.3 of the Operations and Lease Agreement between the PFD and the Club, specifically including a priority security interest in favor of the PFD in Ballpark parking revenues for the purpose of paying principal and interest on the Series C Bonds, if necessary. The obligation of the Club to make such payments shall not

arise until the Stadium Admissions Taxes have been collected on 73 games of Major League Baseball played in the Ballpark. As provided in Section 4.04 of Ordinance No. \_\_\_\_\_, the proceeds of the Stadium Admissions Taxes shall be held by the County in a special trust account designated solely for the payment of debt service on the County's Series A-2 Bonds and the Series C Bonds so long as such Bonds remain outstanding and shall be applied for such purpose prior to any request or demand for payments from the Club. The Parking Facility Financing and Construction Agreement shall establish a process under which the County, the PFD and Club, on an annual basis, shall determine the amount of any funds that will be required from the Club to supplement available Stadium Admissions Tax revenues to meet debt service payments due during that year. The Agreement will require the Club to transfer any such funds anticipated to be necessary to meet a forthcoming debt service payment to the PFD 45 days prior to a debt service payment date. Funds provided by the Club in anticipation that the Stadium Admissions Taxes will be insufficient to meet a forthcoming debt service payment will be reimbursed to the Club to the extent such payments prove unnecessary as of the debt service payment date. The PFD shall transfer funds paid to it by the Club, to the extent such funds are necessary to meet a forthcoming debt service payment, to the County for timely payment of debt service. If necessary to ensure timely payment of debt service, the PFD agrees to exercise its rights under the Agreement to obtain the payments from the Club as well as to exercise its other remedies under the Operations and Lease Agreement, specifically including but not limited to drawing on the Club's Reserve Letter of Credit required under Section 8.1 of the Operations and Lease Agreement.

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## EXHIBIT D

TENDER AND PAYING AGENT AGREEMENT

This TENDER AND PAYING AGENT AGREEMENT (the "Agreement") is dated as of April \_\_\_\_\_, 1997, and is among KING COUNTY, WASHINGTON (the "~~County~~"), THE BANK OF NEW YORK (the "Tender and Paying Agent") and BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, doing business as SEAFIRST BANK (the "Bank").

## RECITALS

A. The ~~County~~ proposes to issue its Variable Rate Demand Limited Tax General Obligation Bonds, 1997 Series D (the "Series D Bonds"), in the aggregate principle amount of \$150,000,000 \_\_\_\_\_ pursuant to Ordinance No. 12000 and 12593 passed on October 24, 1995 and January 6, 1997, respectively (jointly the "Ordinance"), and supplemental Ordinance No. \_\_\_\_\_ passed on April 2, 1997 \_\_\_\_\_ (the "Bond Ordinance").

B. The Series D Bonds and the Bond Ordinance provide, among other things, that the Series D Bonds are subject to mandatory tender and optional tender under certain conditions.

C. Pursuant to the terms of the Remarketing Agreement, the Remarketing Agent has agreed to use its best efforts (while the Series D Bonds bear interest at a Variable Rate) to remarket any Series D Bond tendered for purchase by the Owner thereof in accordance with the Bond Ordinance.

D. The Bond Ordinance designates The Bank of New York, serving in its capacity as the fiscal agency of the State of Washington in New York, New York, as the initial Registrar for the Series D Bonds.

E. The ~~County~~ desires that The Bank of New York also shall serve as the initial tender and paying agent for the Series D Bonds pursuant to the terms of the Bond Ordinance and this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, performances and obligations set forth in this Agreement, the parties hereto agree as follows:

1. Defined Terms. Capitalized terms used but not defined in this Agreement including the Recitals hereto shall have the meanings assigned to them in the Bond Ordinance.

2. Acceptance of Appointment as Tender and Paying Agent. Pursuant to the Bond Ordinance, the ~~County~~ County has appointed The Bank of New York as its agent with full power and authority in its own name as Tender and Paying Agent to perform the functions of Tender and Paying Agent as set forth herein and in the Bond Ordinance, the Series D Bonds and the Letter of Representations. The Bank consents to such appointment and the Tender and Paying Agent accepts such appointment and agrees to perform those functions as so set forth.

3. Creation of Bond Payment Fund. The Tender and Paying Agent shall create and establish a trust fund designated King County Variable Rate Bond Payment Fund, 1997 (the "Payment Fund"). The Payment Fund shall contain three separate trust accounts designated the Remarketing Account, the Bank Purchase Account and the Liquidity and Credit Facility Account. The Tender and Paying Agent shall deposit in the Remarketing Account all proceeds of the remarketing of Series D Bonds tendered or deemed tendered in accordance with the Bond Ordinance, shall deposit in the Bank Purchase Account all proceeds of draws on the Liquidity and Credit Facility to pay the Purchase Price of Series D Bonds so tendered or deemed tendered and shall deposit in the Liquidity and Credit Facility Account the amounts paid by the County under the Liquidity and Credit Facility to pay principal, interest and redemption price on the Series D Bonds while being held as Bank Bonds (but not the Purchase Price thereof). The Tender and Paying Agent shall have no responsibility with respect to the source of any funds provided to it by the Bank, the County or the Remarketing Agent for the purpose of paying the principal or Purchase Price of or interest or premium, if any, on the Series D Bonds. No money other than the proceeds of the remarketing of Series D Bonds (and the earnings, if any, on that money) shall be deposited in the Remarketing Account; no money other than proceeds of draws on the Liquidity and Credit Facility (and the earnings, if any, on that money) shall be deposited in the Bank Purchase Account; and no money other than the amounts paid by the County under the Liquidity and Credit Facility to pay principal, interest and redemption price on the Series D Bonds while being held as Bank Bonds shall be deposited in the Liquidity and Credit Facility Account. Only money in the Remarketing Account and Bank Purchase Account shall be used to pay the Purchase Price of Series D Bonds tendered or deemed tendered in accordance with the Bond Ordinance. Only money in the Liquidity and Credit Facility Account shall be used to pay the principal, interest and redemption price on the Series D Bonds while being held as Bank Bonds (but not the Purchase Price thereof).

4. Deposits into and Disbursements from the Payment Fund.

(a) Pursuant to the ~~Remarketing Agreement and the~~ Bond Ordinance, the Remarketing Agent will deliver, in immediately available funds, all proceeds of

remarketing Series D Bonds to the Tender and Paying Agent on or before 11:30 a.m., New York City time, on each Purchase Date for deposit in the Remarketing Account.

(b) The Tender and Paying Agent shall draw on the Liquidity and Credit Facility on or before each Purchase Date so that proceeds of that draw are available on that date ~~if and to the extent there is insufficient money in the Remarketing Account~~ to pay the Purchase Price of Series D Bonds tendered or deemed tendered on that day.

(c) On or before 3:30 p.m., New York City time, on each Purchase Date, the Tender and Paying Agent shall apply the money delivered to it under ~~this~~ Section 4(b) to purchase tendered Series D Bonds at the Purchase Price.

(d) Amounts in the Remarketing Account shall be remitted to the Bank to reimburse it for draws made under the Liquidity and Credit Facility pursuant to Section 4(b).

(ed) Purchases of Series D Bonds shall be made in the manner described in the Bond Ordinance. The Tender and Paying Agent shall be entitled to demand when appropriate a due-bill from the Owner of such Series D Bonds as a condition of purchase.

(fe) Payment of principal, interest and redemption price on the Series D Bonds while held as Bank Bonds shall be paid from the Liquidity and Credit Facility Account.-

(g) The Tender and Paying Agent shall draw on the Liquidity and Credit Facility on or before each Interest Payment Date so that proceeds of the draw will be available on such Interest Payment Date to pay interest due and payable on the Series D Bonds.

(h) The Tender and Paying Agent shall remit amounts received from the County to the Bank to reimburse the Bank for interest draws under the Liquidity and Credit Facility made pursuant to Section 4(g).

(if) The Tender and Paying Agent shall have no obligation to expend its own funds or to use any funds other than those received from the Remarketing Agent or from the Bank pursuant to a draw under the Liquidity and Credit Facility in connection with any purchase of Series D Bonds.

5. Responsibilities. The Tender and Paying Agent accepts the duties and obligations of Tender and Paying Agent described herein, in the Bond Ordinance, in the Series D Bonds and in the Letter of Representations and specifically agrees that:

(a) The Tender and Paying Agent shall hold all Series D Bonds delivered to it for purchase hereunder as agent and bailee of, and in escrow for the benefit of, the respective Owners that shall have so delivered such Series D Bonds until money representing the Purchase Price of such Series D Bonds shall have been delivered to or for the account of such Owners.

(b) The Tender and Paying Agent shall hold all money and due-bills delivered to it hereunder for the purchase of Series D Bonds as agent and bailee of, and in escrow for the benefit of, the person or entity which shall have so delivered such money until the Series D Bonds purchased with such money shall have been delivered to or for the account of such person or entity. The Tender and Paying Agent shall hold in the Payment Fund, including the Remarketing Account and the Bank Purchase Account therein, all money received by it as proceeds of the remarketing of Series D Bonds or from the Bank, as applicable, in trust for the benefit of the Owners of the Outstanding Series D Bonds.

(c) The Tender and Paying Agent shall keep such books and records as shall be consistent with prudent industry practice and shall make such books and records available for inspection by the County, the Bank and the Remarketing Agent upon reasonable notice during the usual business hours of the Tender and Paying Agent. The Tender and Paying Agent shall retain such records for a period of at least six years after the retirement of the last Series D Bond outstanding.

(d) The Tender and Paying Agent shall give notice by telephonic or other electronic means, promptly confirmed by a written notice, to the County, the Remarketing Agent and the Bank of any notice of optional tender of Series D Bonds pursuant to the Bond Ordinance, specifying the principal amount of Series D Bonds to be tendered pursuant to such notice.

(e) The Tender and Paying Agent agrees that it will not release any Series D Bonds tendered to it except to the Remarketing Agent or to or at the direction of the Bank as holder of Bank Bonds. Bank Bonds registered in the name of a Bank Bondholder other than the Bank shall bear a legend to the effect described in Section 2.15 of the Bond Ordinance. The Tender and Paying Agent shall deliver Bank Bonds that have been remarketed by the Remarketing Agent to the purchasers thereof against payment therefor in immediately available funds on the date of such payment in the amount equal to the ~~P~~urchase ~~P~~rice therefor, except that the Tender and Payment Agent will release Bank Bonds only in accordance with Section 10 of this Agreement.

(f) In the case of portions of Series D Bonds for which purchase or redemption is not demanded, the Tender and Paying Agent is authorized to deliver such Series D Bonds, together with the applicable due-bill, in accordance with standard industry practices in effect at the time of such delivery if the manner of redelivery of the

Series D Bonds is not specified in the instructions delivered by the Remarketing Agent or in the notice provided by the tendering Owner.

(g) The Tender and Paying Agent shall send written notice to Owners of Series D Bonds, at the addresses shown on the Bond Register, of any change in the address or telephone number to be used by such Owners in connection with the tendering of Series D Bonds to the Tender and Paying Agent.

(h) The Tender and Paying Agent shall have the sole right to withdraw money from the Payment Fund, but except as otherwise provided herein no such withdrawal shall be made except for the purpose of paying or providing for the payment of principal or Purchase Price of or interest or premium, if any, on Series D Bonds when due. The Tender and Paying Agent agrees to pay the Purchase Price of Series D Bonds first from available money in the Remarketing Account and second from available money in the Bank Purchase Account at the times and in the manner specified in the Bond Ordinance and the Letter of Representations.

(i) Except as otherwise provided in the Letter of Representations or the Bond Ordinance, Series D Bonds paid at maturity, upon redemption or otherwise, shall be stamped, perforated or otherwise marked CANCELED and returned to the County by the Tender and Paying Agent. Bonds called for redemption pursuant to the Bond Ordinance shall not be resold or registered in the name of any other party.

(j) The Tender and Paying Agent shall within three hours, but no later than the same Business Day, notify the County by telephone, promptly confirmed in writing or by electronic means, if, on any Purchase Date, the Tender and Paying Agent shall have insufficient money in the Remarketing Account and the Bank Purchase Account for payment of the Purchase Price of the Series D Bonds. The Tender and Paying Agent shall have no responsibility to pay interest, from any source, on any Series D Bond deemed tendered as a result of the redemption or purchase of such Series D Bond for any period on or after the applicable Purchase Date, except in the case of a Series D Bond purchased prior to an Interest Payment Date but after the Record Date with respect thereto and for which a due-bill has been delivered to the Tender and Paying Agent.

(k) The Tender and Paying Agent hereby waives all rights of set-off or banker's lien which it may have under applicable law against the money deposited in the Payment Fund or otherwise obtained pursuant to this Agreement, the Bond Ordinance or the Purchase Agreement as a result of any indebtedness due to the Tender and Paying Agent by the Remarketing Agent, any of the parties hereto or any other Person in any capacity and for whatever reason.

(l) Anything in this Agreement to the contrary notwithstanding, the Tender and Paying Agent shall not be required to make payments hereunder on any given date except from money on deposit with the Tender and Paying Agent for the purpose of

making such payments, and no provision of this Agreement shall require the Tender and Paying Agent to expend, advance or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers hereunder if it has reasonable grounds for believing that prompt repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(m) Any money held by the Tender and Paying Agent for the payment and discharge of any Series D Bond which remains unclaimed for more than one year after the discharge of such Series D Bond (or such longer period as the County may approve in writing) shall be free from this trust, and the Tender and Paying Agent shall promptly thereafter transfer all unclaimed money, including any interest thereon, in the Payment Fund to the County. The Tender and Paying Agent shall thereupon be released and discharged from any duties or obligations with respect to such money, and the Owners of Bonds payable from any such money shall look only to the County for the payment thereof.

The Tender and Paying Agent shall not be responsible for accounting for, or paying to, any Owner any return on or benefit from money held for the payment of unredeemed Series D Bonds and outstanding checks.

(n) Pursuant to the Remarketing Agreement and the Bond Ordinance, the Remarketing Agent will calculate the interest rate applicable to the Bonds for each Interest Rate Period as provided in Section 2.03 of the Bond Ordinance.

If there is an error in the calculation of the amount of interest owed on any of the Series D Bonds as determined for any Interest Payment Date (whether as the result of clerical error, incorrect calculation, incorrect published or quoted data or otherwise) neither the County nor the Tender and Paying Agent nor the Remarketing Agent shall have any liability to any Owner as a result of such error in calculation, except that the County shall be obligated to pay or cause to be paid any interest actually owed on any of the Series D Bonds not paid when due because of an error in calculation.

(o) Money in the Bank Purchase Account and in the Remarketing Account shall be held uninvested. ~~Money in the Remarketing Account shall be held uninvested.~~ Money held for undelivered Series D Bonds shall be held uninvested or shall be invested in accordance with, and investment earnings thereon shall be distributed in accordance with, the Fiscal Agency Contract, effective February 78, 19973, entered into by and among the Tender and Paying Agent, Wells Fargo Bank, National Association ~~First Interstate Bank of Washington, N.A.~~, and the State of Washington. To the extent Bank funds are not used to purchase Series D Bonds (or set aside for undelivered Series D Bonds), the balance should be returned to the Bank. Notwithstanding the foregoing, if money is received after the Tender and Paying Agent completes investments on a particular day, such money shall be held uninvested until the

next Business Day. The County shall inform the Tender and Paying Agent in writing of Permitted Investments, as defined in the Bond Ordinance. The Tender and Paying Agent shall not be liable or responsible for any losses resulting from making or liquidating any investment made in accordance with this Agreement or the Bond Ordinance.

(p) Notwithstanding anything contained elsewhere in this Agreement, the Tender and Paying Agent, as bond registrar and authenticating agent for the Series D Bonds, in respect to the registration and authentication of Series D Bonds, shall have the right, but shall not be required, to demand any showings, certificates, opinions (including opinions of counsel), appraisals or other information, or corporate action or evidence thereof, in addition to that required by the terms hereof as a condition of such action by the Tender and Paying Agent, deemed desirable for the purpose of establishing the right of the County to the authentication of any Series D Bonds, or the taking of any other action by the Tender and Paying Agent.

(q) The Tender and Paying Agent may consult with counsel satisfactory to it and to the County, and the Tender and Paying Agent may in good faith rely on the advice of such counsel, provided, however, that such reliance shall not relieve the Tender and Paying Agent of any liability it has for its negligence or willful misconduct under this Agreement and the Bond Ordinance.

(r) The Tender and Paying Agent may become the owner of, or acquire any interest in, any of the County's obligations (including, without limitation, the Series D Bonds) with the same rights that it would have if it were not the Tender and Paying Agent hereunder, and may engage or be interested in any financial or other transaction with the County, and may act for, or as depository, trustee or agent for, any holders of any obligations of the County, or any committee or body of such holders, as freely as if it were not the Tender and Paying Agent hereunder.

(s) The principal corporate trust office of the Tender and Paying Agent is 101 Barclay Street, 21W, New York, New York 10286, Attention: Corporate Trust Trustee Administration.

(t) The County will pay all stamp or other documentary taxes or duties, if any, to which this Agreement is or may hereafter become subject.

(u) Nothing in this Agreement shall be deemed to amend, relieve or limit the responsibilities, obligations and duties of the Tender and Paying Agent under the Bond Ordinance, the Series D Bonds, the Letter of Representations or the Purchase Agreement.

6. Representations, Warranties, Covenants and Agreements of the Tender and Paying Agent. The Tender and Paying Agent, by its acceptance hereof, represents, warrants and covenants and agrees with the County and the Bank as follows:

(a) The Tender and Paying Agent has been duly incorporated, is validly existing and is in good standing under the laws of the State of New York, and is authorized by law to perform all the duties and obligations imposed upon it as Tender and Paying Agent by this Agreement, the Letter of Representations and the Bond Ordinance; and

(b) The Tender and Paying Agent has full power and authority to take all actions required or permitted to be taken by the Tender and Paying Agent by or under, and to perform and observe the covenants and agreements on its part contained in, this Agreement, the Letter of Representations and the Bond Ordinance.

7. Notices. Unless otherwise specifically provided for herein, all notices, requests, demands and other instruments which may or are required to be given by any party to any other party, person or entity shall be effective when given as specified in the Bond Ordinance and to the addresses specified in Section 6.09 of the Bond Ordinance.

8. Payment of Tender and Paying Agent: Indemnification. The County shall pay all fees, charges and out-of-pocket expenses of the Tender and Paying Agent, including reasonable fees and expenses of counsel for the Tender and Paying Agent, for entering into this Agreement and acting under and pursuant to the Bond Ordinance and this Agreement. In addition, to the extent permitted by law and applicable public policy, the County shall indemnify and hold the Tender and Paying Agent and its officers, employees and agents harmless from and against any and all losses, costs, charges, expenses, judgments and liabilities to third parties (including the costs and expenses of defending against any claim of liability) arising out of the Tender and Paying Agent's acceptance, performance or administration of this Agreement and the transactions contemplated hereby, except for its acceptance, performance or administration of its obligations under Section 10 of this Agreement. Such indemnification shall not apply to any such losses, costs, charges, expenses, judgments or liabilities caused by the negligence or willful misconduct of the Tender and Paying Agent or its officers, employees or agents. The terms of this Section shall survive the termination of this Agreement.

9. Tender and Paying Agent's Performance: Duty of Care. The Tender and Paying Agent shall perform and comply with all of the duties and obligations on its part contained in the Ordinance, the Bond Ordinance, the Series D Bonds, the Letter of Representations and this Agreement (collectively, the "Documents"). The duties and obligations of the Tender and Paying Agent shall be determined solely by the express provisions of the Documents and the provisions describing the duties and obligations of the Tender and Paying Agent as set forth in the Documents, and no implied covenants or



obligations shall be read into the Documents against the Tender and Paying Agent. In the absence of negligence or willful misconduct on the part of the Tender and Paying Agent,

(a) the Tender and Paying Agent may conclusively rely as to the truth of the statements expressed therein upon any document furnished to it by the County, the Remarketing Agent or the Bank, and

(b) the Tender and Paying Agent may rely and shall be protected in acting upon any document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Tender and Paying Agent shall not be liable for any error in judgment made in good faith by its responsible officers, employees and agents unless the Tender and Paying Agent, its responsible officers, employees or agents were negligent or engaged in willful misconduct. Anything herein to the contrary notwithstanding, the Tender and Paying Agent shall have no liability hereunder for any act or omission except as shall result from its negligence or willful misconduct.

10. Custody of Bank Bonds. The Bank hereby appoints the Tender and Paying Agent as its agent and bailee for the purpose of receiving Bank Bonds and holding such Bank Bonds for and on behalf of the Bank, and the Tender and Paying Agent accepts such appointment. Except at the written direction of the Bank and, unless Bank Bonds are being sold or assigned to another Bank Bondholder, upon receipt of confirmation from the Bank that the Credit (as defined in the Liquidity and Credit Facility) has been reinstated with respect to such Bonds in accordance with the Liquidity and Credit Facility, the Tender and Paying Agent shall not transfer or release possession of any Bank Bonds held by it on behalf of the Bank to any person or in any manner not in accordance with the terms of the Bond Ordinance and shall not enter into any other agreement regarding possession of Bank Bonds without the prior written consent of the Bank. Under no circumstances shall the Tender and Paying Agent pledge, hypothecate or otherwise encumber Bank Bonds held by it pursuant to the terms of this Agreement. Upon written notice to the Bank and release to the Bank or its designee of any Bank Bonds then held by it under this Section, the Tender and Paying Agent shall have the right to terminate its obligations under this Section. In such event, the Tender and Paying Agent shall nonetheless authenticate Bank Bonds in the event of a draw on the Liquidity and Credit Facility, and shall immediately deliver such Bank Bonds to the Bank.

The Tender and Paying Agent will hold all principal and interest payments received in respect of the Bank Bonds in trust for the benefit of the Bank and will promptly remit such payments to the Bank.

In acting under this Section, the Tender and Paying Agent shall not be liable to the Bank except for negligence or willful misconduct in the performance of its obligations under this Section. The Bank shall indemnify the Tender and Paying Agent for and hold it harmless against any and all liability arising out of the performance

of its obligations under this ~~Section~~section, except for liability due to the Tender and Paying Agent's negligence or willful misconduct. The terms of this paragraph shall survive the termination of this Agreement.

11. Term of Agreement. Except as otherwise provided in Section 10 hereof, this Agreement shall remain in full force and effect until the earlier of (a) such time as the interest on the Series D Bonds has been converted to a Fixed Rate to the maturity of the Series D Bonds and all money in the Payment Fund has been transferred according to this Agreement, or (b) the effective date of any resignation, replacement or removal of the Tender and Paying Agent pursuant to Section 12 of this Agreement and Section 2.10(b) of the Bond Ordinance. If in each such case and time, the ~~County~~County and the Tender and Paying Agent shall have fulfilled all of their respective obligations hereunder, this Agreement shall terminate.

12. Resignation by or Removal of the Tender and Paying Agent. The Tender and Paying Agent may at any time resign, be discharged of or be removed from the duties and obligations created by this Agreement as provided in Section 2.10(b) of the Bond Ordinance.

13. Relation to the Bond Ordinance. In the event of a conflict between the provisions of this Agreement and the Bond Ordinance, the Bond Ordinance shall control.

14. Amendments. This Agreement may not be amended so as to adversely affect the right of the Owners of Series D Bonds to deliver such Series D Bonds to the Tender and Paying Agent for purchase on the Purchase Date at the Purchase Price or to receive payment of the principal of and interest and premium, if any, on the Series D Bonds, without the consent of the Owners of each Series D Bond so affected. The ~~County~~County agrees to give to the Tender and Paying Agent prompt written notice of any modification or change of or supplement or amendment to the Bond Ordinance which relates to the rights or obligations of the Tender and Paying Agent hereunder; however, no such modification or change of or supplement or amendment to the Bond Ordinance shall impose any additional duty or obligation on, or alter any existing duty or obligation of, the Tender and Paying Agent hereunder unless this Agreement is appropriately amended to do so. No amendment, modification or waiver shall be effective unless in writing signed by the party against which such amendment, modification or waiver is sought to be enforced.

15. Successors and Assigns. The rights, duties and obligations of the ~~County~~County, the Bank and the Tender and Paying Agent hereunder shall inure, without further act, to their respective successors and permitted assigns. The Tender and Paying Agent may assign its obligations under this Agreement only in compliance with the Bond Ordinance.

16. Book-entry Bonds. If for any period of time the Series D Bonds shall be in fully immobilized (book-entry) form, all references in this Agreement to the delivery of Series D Bonds [(other than Bank Bonds or Series D Bonds to become Bank Bonds, to which this Section shall not apply)] or Series D Bond certificates shall refer to deliveries in accordance with DTC's standard procedures as set forth in the Letter of Representations.

17. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

18. Laws Governing. This Agreement shall be construed in accordance with the substantive laws of the State of Washington, except that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

19. Headings. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

IN WITNESS WHEREOF, the parties have caused this Agreement to be fully executed and delivered by their respective officers duly authorized as of the date first above written.

KING COUNTY, WASHINGTON

By \_\_\_\_\_  
Title: Finance Director

THE BANK OF NEW YORK, as Tender  
and Paying Agent

By \_\_\_\_\_  
Title:

BANK OF AMERICA NATIONAL TRUST AND  
SAVINGS ASSOCIATION, doing business as  
SEAFIRST BANK, as Bank

By \_\_\_\_\_  
Title:

12686

**EXHIBIT E**

**REIMBURSEMENT AGREEMENT**

**Between**

**KING COUNTY, WASHINGTON**

**and**

**SEAFIRST BANK**

**dated as of April 1, 1997**

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## REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT ("Agreement") is made between King County, Washington, a Washington municipal corporation ("Borrower"), and Bank of America National Trust and Savings Association, a national banking association, doing business as Seafirst Bank (including its successors and/or assigns, "Bank").

Recitals:

A. Pursuant to Washington law, the King County Council passed Ordinance 97-177 on ^C, 1997 (the "Bond Ordinance"), authorizing the issuance of a series of bonds entitled "King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D" (the "Bonds") in the aggregate principal amount of \$150,000,000, ~~to be issued pursuant to an Indenture of Trust dated as of April 1, 1997 (the "Indenture"), between Borrower and \_\_\_\_\_, as bond trustee ("Trustee").~~

B. Borrower wishes to enhance the liquidity of the Bonds by providing for the issuance by Bank of its Irrevocable Letter of Credit No. G \_\_\_\_\_, in the amount of \$152,500,000.00, in substantially the form of Exhibit A attached hereto (the "Letter of Credit"), to be drawn upon by the Tender and Paying Agent pursuant to the Tender and Paying Agent Agreement ~~Trustee~~ to purchase the Bonds upon tender by the holders thereof pursuant to the Bond Ordinance ~~the Indenture~~ on or prior to the expiration date of the Letter of Credit.

C. Bank is willing, upon the occurrence of certain events, to issue the Letter of Credit, subject to the terms and conditions of this Agreement.

Based upon the above recitals, and for mutual consideration, the parties agree as follows:

# ARTICLE 1

## Definitions

All terms defined below shall have the meaning indicated. All references in this Agreement to:

- (a) "dollars" or "\$" shall mean U.S. dollars;
- (b) "Article," "Section," or "Subsection" shall mean articles, sections, and subsections of this Agreement, unless otherwise indicated;
- (c) the following terms shall have the meaning given in the ~~Bond Ordinance~~ ~~the Indenture~~: Bank Bonds, ~~Bond Resolution~~, ~~Bond Purchase Contract~~, ~~Closing~~, ~~Escrow Agreement~~, Interest Payment Date, Moody's, ~~Official Statement~~, ~~Rating Agency~~, ~~Related Documents~~, Remarketing Agreement, S&P, Tender and Paying Agent, and Tender and Paying Agent Agreement, ~~and Underwriters~~; and

- (d) an accounting term not otherwise defined in this Agreement shall have the meaning assigned to it under GAAP.

1.1 Bank Interest Rate shall mean the Reference Rate per annum from Closing until June 1, 1997; the Reference Rate plus 1.0% per annum from June 1, 1997, through June 1, 1998; and thereafter the Reference Rate plus 3.0% per annum.

1.2 Bonds shall have the meaning given in the recitals of this Agreement.

1.3 Business Day shall mean any day other than a Saturday, Sunday, or other day on which commercial banks in Seattle, Washington, are authorized or required by law to close.

~~1.4 Date of Issuance shall mean the date upon which the Bonds are issued and the purchase price paid by the initial Bond purchaser(s).~~

1.4 ERISA shall mean the Employee Retirement Income Security Act of 1974, as amended.

1.5 Escrow Agreement shall mean the Escrow Fund Deposit Agreement dated as of April 10, 1997, between the Tender and Paying Agent, and the Washington State Major League Baseball Stadium Public Facilities District, King County, Washington.

1.6 Fee Payment Date shall mean the first Business Day of each June, September, December, and March, beginning June 1, 1997, and the date upon which the Letter of Credit expires.

~~1.8 Floating Rate shall mean the Reference Rate per annum from the Date of Issuance until June 1, 1997; the Reference Rate plus 1.0% per annum from June 1, 1997, through June 1, 1998; and thereafter the Reference Rate plus 3.0% per annum.~~

1.7 GAAP shall mean generally accepted accounting principles for governmental entities as in effect from time to time in the United States, including official interpretations issued by the Governmental Accounting Standards Board, and as consistently applied by Borrower.

~~1.10 Indenture shall have the meaning given in the recitals of this Agreement.~~

1.8 Letter of Credit shall have the meaning given in the recitals to this Agreement.

1.9 Letter of Credit Balance shall mean the total outstanding liability of Bank at any given time under the Letter of Credit.

1.10 Liquidity Drawing shall mean any drawing made pursuant to Annex C under the Letter of Credit.

1.11 Obligations shall mean all of the payment obligations described in Article 3; the Bank Bonds; and all fees, costs, expenses, and indemnifications due to Bank under this Agreement.

1.12 Official Statement shall mean <sup>^</sup>C.

1.13 Rating Agency shall mean Moody's and/or S&P.

1.14 Related Documents shall mean the Bond Ordinance, the Remarketing Agreement, the Tender and Paying Agent Agreement, and the Escrow Agreement.

1.15 Reference Rate shall mean the rate of interest publicly announced from time to time by Bank in San Francisco, California, as its "Reference Rate," calculated on the basis of actual number of days elapsed over a year of 365/366 days. The Reference Rate is set based on various factors, including Bank's costs and desired return, general economic conditions, and other factors, and is used as a reference point for pricing some loans. Bank may price loans to its customers at, above, or below the Reference Rate. Any change in the Reference Rate shall take effect at the opening of business on the day specified in the public announcement of a change in the Reference Rate.

~~1.19 Trustee shall have the meaning given in the recitals of this Agreement.~~



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1.16 Underwriter shall mean Smith Barney Inc. as representative of the underwriters of the King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series B, C, and D.

## ARTICLE 2 Letters of Credit

2.1 Issuance. Upon Borrower's satisfaction of all conditions precedent contained in Article 4 of this Agreement, Bank shall issue the Letter of Credit, subject to the terms and conditions of this Agreement. The Letter of Credit may be transferred successively in accordance with its terms.

2.2 Rights of Parties. The rights and obligations of Borrower as account party, Bank as issuer of the Letter of Credit, and the Tender and Paying Agent ~~Trustee~~ as beneficiary of the Letter of Credit shall be governed by, and construed in accordance with, the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500 ("UCP"), excluding Article 41 and the first paragraph of Article 48(g) of the UCP, and with the Uniform Commercial Code as enacted in Washington (RCW 62A.5-101, *et seq.*) to the extent not inconsistent with the UCP.

## ARTICLE 3 Reimbursement and Other Payments

3.1 Amounts Payable to Bank. Borrower shall pay to Bank the following amounts:

- (a) upon execution of this Agreement, an issuance fee of \$20,000.
- (b) reimbursement of all principal and interest on the Bonds for which draws are made under the Letter of Credit, with such reimbursement to be made:
  - (i) as to Liquidity Drawings, no later than on the earliest of: (A) June 1, 1998; or (B) the date on which the Remarketing Agent is able to remarket the Bonds purchased by the Tender and Paying Agent ~~Trustee~~ with the proceeds of the Liquidity Drawing. Borrower may reimburse Bank for all or any portion of any Liquidity Drawing on any earlier date, without premium or penalty.
  - (ii) as to all drawings under the Letter of Credit other than Liquidity Drawings, on the date of each such drawing (but not until Bank has honored such drawing).
- (c) for each drawing under the Letter of Credit, a draw fee of \$150.00, and for each other amendment, transfer, or other transaction with regard to the Letter of Credit, transaction fees determined in accordance with Bank's standard fee schedule applicable to all Bank customers, as such schedule may vary from time to time, with payment of each such fee to be made immediately upon demand by Bank.
- (d) a commitment fee for issuance of the Letter of Credit equal to 0.15% per annum of the Letter of Credit Balance (calculated on the basis of actual number of days elapsed over a year of 365/366 days), for the period from Closing ~~the Date of Issuance~~ until the date upon which the Letter of Credit expires, to be paid quarterly in arrears on each Fee Payment Date.
- (e) as to unreimbursed Liquidity Drawings, interest on any unreimbursed drawings ~~under the Letter of Credit at the Floating Bank Interest Rate~~, in arrears on each Interest Payment

Date, from the date of each Liquidity Drawing until reimbursement in full; and, as to all other unreimbursed drawings, at a floating rate equal to the Reference Rate plus 3% per annum.

3.2 Increased Costs. If any change in any law or regulation or in the interpretation thereof by any court or administrative or governmental authority charged with the administration thereof shall become effective after the date of this Agreement, which shall either:

(a) Impose, modify, or deem applicable any reserve, special deposit, or similar requirement against letters of credit issued by Bank; or

(b) Impose on Bank any other condition regarding this Agreement or the Letter of Credit;

and the result of any event referred to in Section 3.2(a) or (b) shall be to increase the cost to Bank of issuing or maintaining the Letter of Credit, which increase in cost (such costs, without limitation, being in the nature of reserve or other similar costs), shall be the result of Bank's reasonable allocation among all outstanding letters of credit of the aggregate of such cost increases resulting from such event, then the accrual of the commitment fee described in Subsection 3.1(d) may be recalculated retrospectively and/or prospectively, as the case may be, in amounts which shall be sufficient to compensate Bank for such increased cost. A certificate as to such increased cost, in reasonable detail, incurred by Bank as a result of any event mentioned in Section 3.2(a) or (b), shall be submitted by Bank to Borrower.

3.3 Manner of Payment. All payments by Borrower to Bank under this Agreement shall be made in lawful currency of the United States, in immediately available funds, at the office Bank may designate.

#### ARTICLE 4 Conditions of Lending

Bank shall issue the Letter of Credit at Closing, ~~so long as on the date (the "Date of Issuance") upon which~~ the Bank shall have received all of the documents described below, and the other conditions listed below shall have been satisfied. Upon satisfaction or waiver of such conditions, Bank shall deliver to the Tender and Paying Agent ~~the Trustee~~ the Letter of Credit:

4.1 Agreement. Counterparts of this Agreement shall have been duly executed and delivered by Borrower and Bank.

4.2 Bond Resolution. Copies of the Bond Resolution certified by the County Clerk and certified copies of any other proceedings held in connection therewith.

4.3 Related Documents. Executed copies of the ~~Bond Ordinance~~ the Indenture, the Remarketing Agreement, the Tender and Paying Agent Agreement, and Escrow Agreement.

4.4 Escrowed Funds. Bank shall determine to its satisfaction that the Escrow Agreement requires that proceeds of the Bonds remain in escrow in the amount of (a) \$152,500,000.00 until the Letter of Credit expires according to its terms or is surrendered to Bank; and (b) the aggregate principal amount of all Bank Bonds, plus all interest which would accrue on such Bank Bonds at an assumed rate of interest of 12% per annum until the next Interest Payment Date, so long as any Bank Bonds are outstanding as Bank Bonds.

4.5 Official Statement. A conformed copy of the Official Statement.

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4.6 Opinions; Certificates. A copy of each opinion, certificate, report, and other document (in each case addressed to Bank if so requested) required to be delivered under the ~~Bond Purchase~~ Contract to the Underwriters.

4.7 Reliance Letter. A reliance letter of Bond Counsel, dated as of ~~Closing the Date of~~ ~~issuance~~ and addressed to Bank, allowing Bank to rely on their final approving opinion delivered pursuant to Section \_\_\_\_\_ of the ~~Bond Purchase~~ Contract.

4.8 Other Documents. Bank shall have received all documents it may reasonably request relating to the existence of Borrower and the legal authority for and the validity, binding effect, and enforceability of this Agreement and the Related Documents, the tax-exempt status of interest on the Bonds, and any other matters relevant hereto or thereto, all in form and substance satisfactory to Bank.

4.9 No Default. No Default shall have occurred and be continuing at ~~Closing the Date of~~ ~~issuance~~, nor will any result from the execution or delivery of this Agreement by Borrower.

4.10 Representations and Warranties. The representations and warranties of Borrower contained (or incorporated by reference) in this Agreement and in any Related Document shall be true and correct in all material respects on and as of ~~Closing the Date of Issuance~~ as if made on and as of such date.

4.11 Officer's Certificate. Borrower shall have delivered to the Bank a certificate signed by an officer of Borrower, dated as of ~~Closing the Date of Issuance~~, affirming the truth and accuracy of Subsections 4.9 and 4.10.

4.12 Miscellaneous. Such other documents, instruments, and opinions as Bank may reasonably require.

## ARTICLE 5

### Representations and Warranties

To induce Bank to enter into this Agreement, Borrower represents, warrants, and covenants to Bank as follows:

5.1 Organization and Powers. Borrower is a municipal corporation duly organized and validly existing under and by virtue of the laws of the State of Washington. Borrower has all requisite power and authority to enter into and perform this Agreement, the Related Documents to which it is a party, and the Bonds.

5.2 Power and Authority. Borrower has taken all necessary action to authorize the execution, delivery, and performance by it of this Agreement and each of the Related Documents to which it is a party. Borrower has, or in the case of the Related Documents and the Bonds, by ~~Closing the Date of Issuance~~ will have, duly executed and delivered this Agreement, each of the Related Documents to which it is a party, and the Bonds; and this Agreement, each of such Related Documents, and the Bonds constitutes or, in the case of each such Related Document and the Bonds when executed and delivered, will constitute, its valid and binding obligation enforceable against Borrower in accordance with its terms, except as it may be limited by applicable bankruptcy, insolvency, moratorium, reorganization, or similar laws affecting the enforcement of creditors' rights generally and to the application of equitable principles.

5.3 Use of Proceeds. The proceeds of the Bonds will be used only as authorized in the Bond Resolution.

5.4 No Violation. Neither the execution, delivery, or performance by Borrower of this Agreement or the Related Documents to which it is a party, nor the issuance of the Bonds, (i) will contravene any provision of any law, statute, rule, or regulation of the State of Washington or the United States, (ii) will contravene any order, writ, injunction, or decree of any court or governmental instrumentality, or (iii) will result in any breach in any material respect of any of the terms of, or constitute a default in any material respect under, any agreement, contract, or instrument to which Borrower is a party or by which it or any of its property or assets is bound.

5.5 Governmental Approvals. No order, consent, approval, license, authorization, or validation of, or filing, recording, or registration with (except as have been obtained or made prior to ~~Closing the Date of Issuance~~), and except for such approvals, consents, or orders as may be required under Blue Sky or other securities laws of any state in connection with the offering and sale of the Bonds), or exemption by, any governmental or public body or authority, or any subdivision thereof, is required to authorize, or is required in connection with, (i) the execution, delivery, and performance of this Agreement, or any Related Document to which Borrower is a party, or the Bonds, or (ii) the legality, validity, binding effect, or enforceability of this Agreement, any Related Document to which Borrower is a party, or the Bonds.

5.6 Litigation. Except as set forth in the Official Statement, as of the date hereof there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to the best knowledge of Borrower, threatened against Borrower, affecting the corporate existence of Borrower or the titles of its officers to their respective offices, or seeking to prohibit, restrain, or enjoin the sale, issuance, or delivery of the Bonds, or in any way contesting or affecting the validity or enforceability of the Bonds, this Agreement or any Related Document to which Borrower is a party or contesting the exclusion of interest on the Bonds from gross income for federal income tax purposes, or contesting or affecting in any way the completeness or accuracy of the Official Statement or any supplement or amendment thereto, or contesting the powers of Borrower or any authority for the issuance of the Bonds, the adoption of the Bond Resolution, or the execution and delivery of this Agreement or, to the best knowledge of Borrower, is there any basis therefor wherein an unfavorable decision, ruling, or finding would materially adversely affect the validity or enforceability of the Bonds, this Agreement, or any Related Document to which Borrower is a party.

5.7 True and Complete Disclosure. All factual information certified by Borrower in writing to Bank (including without limitation all information contained in this Agreement and the Related Documents) is, and all other such factual information hereafter certified by Borrower in writing to Bank will be, true and accurate in all material respects on the date as of which such information is certified. The Official Statement as of its date and as of ~~Closing the Date of Issuance~~ did not and will not contain any untrue statement of a material fact or omit to state any fact necessary to make the statements made therein not misleading; provided, however, that notwithstanding the foregoing, Borrower makes no representation as to information in the Official Statement regarding Bank.

5.8 Compliance with Statutes, etc. Borrower is in compliance with all applicable statutes, regulations, and orders of, and all applicable restrictions imposed by, all governmental bodies, domestic or foreign, in respect of the conduct of its business and the ownership of its property, except such noncompliances as would not, in the aggregate, have a material adverse effect on the business, operations, property, assets, or condition (financial or otherwise) of Borrower.

5.9 Inapplicability of ERISA. Borrower does not maintain or contribute to, nor has it at any time during the five calendar years immediately preceding the date of this Agreement contributed to, a "plan," as defined under ERISA, that is not excluded from the coverage of Title I of ERISA and that constitutes an obligation of Borrower.

5.10 Incorporation of Representations and Warranties by Reference. Borrower hereby makes to Bank the same representations and warranties as were made by it in each Related Document to

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which it is a party, which representations and warranties, together with the related definitions of terms contained therein, are hereby incorporated by reference with the same effect as if each and every such representation and warranty and definition were set forth herein in its entirety. No amendment to such representations and warranties or definitions made pursuant to the relevant Related Document shall be effective to amend such representations and warranties and definitions as incorporated by reference herein without the prior written consent of Bank.

#### ARTICLE 6 Affirmative Covenants

So long any liability exists under the Letter of Credit, or the Obligations remain unpaid, Borrower shall:

6.1 Use of Proceeds. Use the proceeds of the Bonds in compliance with the Bond Resolution.

6.2 Financial Information. Maintain a standard system of accounting in accordance with GAAP and furnish to Bank annual budgets and financial statements consistent with past practices, and upon demand furnish to Bank such additional information which Borrower may from time to time be required to produce pursuant to Section 6.02 of the Bond Ordinance.

~~6.3 Financial Covenant. [TO BE DETERMINED].~~

#### ARTICLE 7 Events and Consequences of Default

7.1 Events of Default. Any of the following events shall, at the option of Bank and at any time without regard to any previous knowledge on the part of Bank, constitute a default by Borrower under the terms of this Agreement ("Default"):

(a) Borrower shall fail to pay or cause to be paid when due (i) any amounts with respect to the principal of, or interest or premium, if any, on the Bonds (including Bank Bonds), required to be paid pursuant to this Agreement or the Bonds (including Bank Bonds) or (ii) any other amount payable pursuant to this Agreement or the Bonds (including Bank Bonds);

(b) Borrower shall fail to observe or perform any covenant or agreement contained or incorporated by reference in this Agreement (other than those covered by clause (a) above), in any Related Document to which it is a party or in the Bonds for 30 days after written notice thereof requesting that such default be remedied has been given to it by the Bank; provided, that if compliance with said covenant or agreement cannot be accomplished with the exercise of due diligence within 30 days and Borrower is proceeding with due diligence toward compliance, Borrower shall have 60 days to accomplish compliance;

(c) Any representation, warranty, certification, or statement made by Borrower (or incorporated by reference) in this Agreement or in any Related Document to which it is a party or in any certificate, financial statement, or other document delivered pursuant to this Agreement or any Related Document shall prove to have been incorrect in any material respect when made;

(d) A moratorium shall have been declared or announced (whether or not in writing) by Borrower with respect to any general obligation debt of Borrower;

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(e) Borrower shall commence a voluntary case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking of possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any action to authorize any of the foregoing;

(f) Borrower shall fail to make any payment in respect of any general obligation debt of Borrower when due beyond the applicable grace period not to exceed 30 days, if any, provided in the instrument or agreement under which such general obligation debt were created or issued;

(g) Any Rating Agency then rating general obligation debt of Borrower downgrades ~~(to a rating below \_\_\_\_\_)~~ or withdraws its rating on such general obligation debt; or

(h) A material event of default or default shall have occurred and shall be continuing under any of the Related Documents;

7.2 Remedies. Upon the occurrence of a Default, all Obligations shall, at the option of Bank, begin accruing interest at a floating rate equal to the Reference Rate plus 3% per annum, and Bank may (a) demand immediate payment from Borrower of all Obligations, including immediate reimbursement of all ~~Liquidity Drawings; unraimbursed drawings under the Letter of Credit;~~ (b) direct the Tender and Paying Agent, pursuant to Section 2.04(b)(ii) of the Bond Ordinance, to effect a mandatory tender and purchase of all outstanding Bonds, and/or (c) pursue any other available legal and equitable remedies. All of Bank's rights and remedies in this Agreement and all Related Documents shall be cumulative and can be exercised separately or concurrently.

## ARTICLE 8 Miscellaneous

### 8.1 Manner of Payments.

(a) Payments on Nonbusiness Days. Whenever any event is to occur or any payment is to be made under this Agreement on any day other than a Business Day, such event may occur or such payment may be made on the next succeeding Business Day and such extension of time shall be included in computation of interest in connection with any such payment.

(b) Payments. All payments and reimbursements to be made by Borrower shall be made to Bank when due, at Bank's office as may be designated by Bank, without offsets or counterclaims for any amounts claimed by Borrower to be due from Bank, in U.S. dollars and in immediately available funds.

(c) Application of Payments. All payments made by Borrower shall be applied first against fees, expenses, and indemnities due; second, against interest due; and third, against principal, with Bank having the right, after a Default which is continuing, to apply any payments or collections received against any one or more of the Obligations in any manner which Bank may choose.

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(d) Recording of Payments. Bank is authorized to record on a schedule or computer-generated statement all payments of principal and interest. All such schedules or statements shall constitute *prima facie* evidence of the accuracy of the information so recorded.

8.2 Notices. All notices, demands, and other communications to be given pursuant to this Agreement shall be in writing and shall be deemed received the earlier of when actually received, or two days after being mailed, postage prepaid and addressed as follows, or as later designated in writing:

**Bank:**

SEAFIRST BANK  
Public Sector Banking  
800 Fifth Avenue, 34th Floor  
Seattle, Washington 98104  
Attention: Kerrin Gibbons

**Borrower:**

KING COUNTY  
County Administration Building, 8th Floor  
500 Fourth Avenue  
Seattle, Washington 98104  
Attention: Director of Finance

8.3 Documentation and Administration Expenses. Borrower shall pay, reimburse, and indemnify Bank for all of Bank's reasonable costs and expenses, including, without limitation, all attorneys' fees (including the allocated cost of in-house counsel) and legal expenses incurred in connection with the negotiation, preparation, execution, and administration of this Agreement and all other Related Documents, up to a maximum of \$25,000, and all amendments, supplements, or modifications thereto. Borrower acknowledges that any legal counsel retained or employed by Bank acts solely on the Bank's behalf and not on Borrower's behalf, despite Borrower's obligation to reimburse Bank for the cost of such legal counsel, and that Borrower has had sufficient opportunity to seek the advice of its own legal counsel with regard to this Agreement.

8.4 Collection Expenses. The nonprevailing party shall, upon demand by the prevailing party, reimburse the prevailing party for all of its costs, expenses, and reasonable attorneys' fees (including the allocated cost of in-house counsel) incurred in connection with any controversy or claim between said parties relating to this Agreement or any of the Related Documents, or to an alleged tort arising out of the transactions evidenced by this Agreement, including those incurred in any action, bankruptcy proceeding, arbitration or other alternative dispute resolution proceeding, or appeal, or in the course of exercising any judicial or nonjudicial remedies.

8.5 Waiver. No failure to exercise and no delay in exercising, on the part of Bank, any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power, or privilege. Further, no waiver or indulgence by Bank of any Default shall constitute a waiver of Bank's right to declare a subsequent similar failure or event to be a Default.

8.6 Assignment. This Agreement is made expressly for the sole benefit of Borrower and for the protection of Bank and its successors and assigns. The rights of Borrower hereunder shall not be assignable by operation of law or otherwise, without the prior written consent of Bank.

8.7 Merger. This Agreement and the Related Documents constitute Bank's entire agreement with Borrower with regard to the Letter of Credit, and supersede all prior writings and oral negotiations. No oral or written representation, covenant, commitment, waiver, or promise of either Bank or Borrower shall have any effect, whether made before or after the date of this Agreement, unless contained in this Agreement, or in an amendment complying with Section 8.8. ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

8.8 Amendments. Any amendment or waiver of, or consent to any departure by Borrower from any provision of, this Agreement shall be in writing signed by each party to be bound thereby, and shall be effective only in the specific instance and for the specific purpose for which given.

8.9 Construction. Each term of this Agreement shall be binding to the extent permitted by law and shall be governed by the laws of the State of Washington, excluding its conflict of laws rules. If one or more of the provisions of this Agreement should be invalid, illegal, or unenforceable in any respect, the remaining provisions of this Agreement shall remain effective and enforceable. The captions and organization of this Agreement are for convenience only, and shall not be construed to affect any provision of this Agreement.

8.10 State of Washington. The Obligations are not an obligation of the State of Washington, are not backed by the full faith and credit of the State of Washington. The Obligations constitute limited tax general obligations of Borrower.

DATED as of April 1, 1997.

Borrower:

KING COUNTY, WASHINGTON

Bank:

SEAFIRST BANK

By \_\_\_\_\_  
Brad Duerr,  
Director of Finance

By \_\_\_\_\_  
Kerrin Gibbons,  
Vice President



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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

[Seattle-First National Bank changed its name to Bank of America NW, N.A., effective March 1, 1996, and merged into Bank of America National Trust and Savings Association, effective January 1, 1997]

## IRREVOCABLE LETTER OF CREDIT NO. G \_\_\_\_\_

[Date]

U.S. \$152,500,000.00

Bank of New York  
101 Barclay Street, 21W  
New York, New York 10286

Re: King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds  
1997, Series D ("Bonds")

Ladies and Gentlemen:

We ("Bank") hereby establish our Irrevocable Letter of Credit ("Letter of Credit") in favor of Bank of New York (hereafter "you" or "Beneficiary"), as Tender and Paying Agent for the benefit of the holders of the Bonds, in the aggregate stated amount of One Hundred Fifty-Two Million Five Hundred Thousand and No/100 U.S. Dollars (\$152,500,000.00) (the "Credit"), comprised of One Hundred Fifty Million and No/100 U.S. Dollars (\$150,000,000.00) of principal, and Two Million Five Hundred Thousand and No/100 U.S. Dollars (\$2,500,000.00) of interest. The Bonds are issued by King County, Washington ("the County") pursuant to King County Ordinance No. 97-177 adopted by the King County Council on \_\_\_\_\_, 1997 (the "Bond Ordinance").

Funds under this Letter of Credit are available to you against your sight drafts drawn on us stating on the face: "Drawn under Seafirst Bank Irrevocable Letter of Credit No. G \_\_\_\_\_ dated April \_\_\_\_\_, 1997" and presentation to us of your written certificates in the forms attached and incorporated herein as Annex A (an "Interest Drawing"), Annex B (a "Maturity or Redemption Drawing"), and/or Annex C (a "Liquidity Drawing").

Demand for payment may be made by you at any time during our business hours (or if a demand is made, as permitted herein, by tested telex or SWIFT, such demand may be delivered prior to our regular business hours) at Seafirst Bank, Attention: International Trade Operations Department, P.O. Box 3977, Seattle, WA 98124 (Seafirst Fifth Avenue Plaza Building, 800 Fifth Avenue, Floor 31, Seattle, WA 98104, or such other office of which Bank shall notify Beneficiary in writing from time to time), on a Business Day (any day other than (i) a Saturday or a Sunday; (ii) a day on which commercial banks in Seattle, Washington, or New York, New York, are authorized or obligated by law or executive order to close; (iii) a day on which the New York Stock Exchange is closed; or (iv) a day upon which the Bank is closed). Communications with respect to this Letter of Credit shall be in writing and shall be addressed to us at Seafirst Bank, Attention: International Trade Operations Department, P.O. Box 3977, Seattle, WA 98124 (Seafirst Fifth Avenue Plaza Building, 800 Fifth Avenue, Floor 31, Seattle, WA 98104, or such other office of which Bank shall notify Beneficiary in writing from time to time). We will honor a Liquidity Drawing by tested telex or SWIFT, *provided* that any presentation by tested telex or SWIFT shall be promptly confirmed by telephone, with telephonic advice and tested telex or SWIFT transmission both to be received by us before the applicable time deadline, with the original statement(s) to be sent to us by U.S. Mail on the same day as the tested telex or SWIFT. Our telex number is "3730000 SEAFIRST SEA," our SWIFT number is "SEAFUS66," and our telephone number is (206) 358-3083 (or such other numbers as we may designate in a written notice delivered to you).

\_\_\_\_\_  
Authorized Signature\_\_\_\_\_  
Authorized Signature

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G \_\_\_\_\_

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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

This is page 2 which forms an integral part of this  
Irrevocable Letter of Credit No. G \_\_\_\_\_

If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you prompt notice that the purported demand was not effected in accordance with this Letter of Credit, stating the reasons therefor and that we are holding any documents at your disposal or are returning them to you, as we may elect. Upon being notified that the purported demand was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment if and to the extent that you, as Tender and Paying Agent, are entitled and able to do so before the expiration of this Letter of Credit.

Our payments to you will be made in U.S. Dollars and immediately available funds. All payments under this Letter of Credit shall be made strictly from our own funds and not in reliance upon the receipt of any funds from any other source, including the County. Any time of day specified in this Letter of Credit is considered to be local time in Seattle, Washington. If a drawing conforms to the terms and conditions hereof, payment shall be made to you of the amount specified in your drawing, as follows:

<u>Drawing</u>	<u>If Received By (Seattle time)</u>	<u>Will Be Honored By (Seattle time)</u>
A - Interest Drawing	12:00 noon	11:00 a.m. (next Business Day)
B - Maturity or Redemption Drawing	12:00 noon	11:00 a.m. (next Business Day)
C - Liquidity Drawing	9:00 a.m.	12:00 noon (same Business Day)

If any drawing is received by us after the time specified above, the drawing will be deemed to be received at the appropriate time on the following Business Day.

Partial drawings are permitted under this Letter of Credit. The Credit shall be reduced and reinstated as described in the following paragraphs.

The Credit shall be reduced automatically upon our payment of any drawing in the following amounts:

<u>Type of Drawing</u>	<u>Type and Amount of Credit Reduction</u>
Interest Drawing	Interest in the dollar amount of the Interest Drawing
Maturity or Redemption Drawing	Principal in the dollar amount of the principal component specified in the Maturity or Redemption Drawing, plus interest in the dollar amount of the interest component specified in the Maturity or Redemption Drawing

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G \_\_\_\_\_

INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

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This is page 3 which forms an integral part of this  
Irrevocable Letter of Credit No. G\_\_\_\_\_

Type of Drawing

Type and Amount of Credit Reduction

Liquidity Drawing

Principal in the dollar amount of the principal component specified in the Liquidity Drawing, plus interest in the dollar amount of the interest component specified in the Liquidity Drawing

In addition, you will provide confirmation that the Credit has been permanently reduced as provided in your certificate in the form of Annex E attached and incorporated herein.

The Credit shall be reinstated under the following circumstances:

(a) Interest Drawings shall be reinstated on the same Business Day on which an Interest Drawing is honored, in a dollar amount equal to the dollar amount paid by us under the Interest Drawing.

(b) Maturity or Redemption Drawings shall not be reinstated.

(c) Liquidity Drawings made after Bank has given a notice to Beneficiary in the form of Annex D shall not be reinstated. All other Liquidity Drawings shall be reinstated upon remarketing of any Bank Bond in respect of which a Liquidity Drawing was made, and reimbursement to the Bank of the amount of such Liquidity Drawing, plus interest from the date of such Liquidity Drawing at a floating interest rate equal to the Bank's "Reference Rate" per annum, as such term is defined in the Reimbursement Agreement; with such reinstatement to be effective immediately and without further notice to any party in an amount equal to the principal amount of the Bank Bond(s) remarketed, plus 37 days of interest on such principal amount at an assumed interest rate of twelve percent (12%) per annum, calculated on the basis of actual number of days elapsed over a year of 365/366 days, as the case may be.

This Letter of Credit shall expire at 3:30 p.m. in Seattle, Washington, on the earliest to occur of the following dates:

- (i) June 1, 1997 (the "Expiration Date");
- (ii) Fifteen (15) days (or if such 15th day is not a Business Day, on the next following Business Day) after you have received notice from us in the form of Annex D hereto;
- (iii) The date you surrender this Letter of Credit to us for cancellation;
- (iv) The date of our receipt of a certificate from you in the form of Annex G hereto to the effect that the Letter of Credit is delivered for cancellation;
- (v) Five (5) days (or if such fifth day is not a Business Day, on the next following Business Day) after the "Conversion Date" specified in a certificate received by us from you in the form of Annex H to the Letter of Credit; or

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G\_\_\_\_\_

INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

This is page 4 which forms an integral part of this  
Irrevocable Letter of Credit No. G\_\_\_\_\_

(vi) Ten (10) days (or if such 10th day is not a Business Day, on the next following Business Day) after the date of our receipt of a certificate from you in the form of Annex B hereto that you have declared the principal amount of and accrued interest on all Bonds outstanding to be immediately due and payable.

This Letter of Credit is transferable in the amount of the full unutilized balance hereof, and not in part, to any transferee who has succeeded you as Tender and Paying Agent under the Bond Ordinance and such transferred Letter of Credit may be successively transferred. Transfer of the available drawings(s) under this Letter of Credit to such transferee shall be effected by the presentation to us of this Letter of Credit accompanied by the transfer form attached hereto as Annex E, and by our standard transfer fee (as of such time).

Except as otherwise expressly stated herein, this Letter of Credit is subject to the Uniform Customs and Practices for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500 (the "UCP"). As to matters not covered by the UCP and to the extent not inconsistent with the UCP and this Letter of Credit, this Letter of Credit shall be governed by and construed in accordance with the laws of the State of Washington.

This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument or agreement referred to herein (including, without limitation, the Bonds), except for the certificates and sight drafts referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement except for such certificates and such drafts.

Very truly yours,

BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION,  
doing business as Seafirst Bank

By \_\_\_\_\_  
Authorized Signature

By \_\_\_\_\_  
Authorized Signature

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G\_\_\_\_\_

12686

INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

This is page 5 which forms an integral part of this  
Irrevocable Letter of Credit No. G \_\_\_\_\_

ANNEX A

CERTIFICATE FOR INTEREST DRAWING

Seafirst Bank  
Fifth Avenue Plaza Building  
800 Fifth Avenue, Floor 31  
Seattle, Washington 98104  
Attention: International Trade Operations Department

Re: Irrevocable Letter of Credit No. G \_\_\_\_\_ issued by Bank of America National Trust and Savings Association, doing business as Seafirst Bank, regarding King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds")

The undersigned, a duly authorized officer of \_\_\_\_\_, in its capacity as Tender and Paying Agent (the "Tender and Paying Agent"), hereby certifies to Bank of America National Trust and Savings Association, doing business as Seafirst Bank (the "Bank"), with reference to the Irrevocable Letter of Credit referred to above (the "Letter of Credit") issued in favor of the Tender and Paying Agent pursuant to the Reimbursement Agreement dated as of April 1, 1997 (the "Reimbursement Agreement"), between the Bank and King County, Washington (the "County") with respect to the King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds"), and King County Ordinance No. 97-177 adopted by the King County Council on \_\_\_\_\_, 1997 (the "Bond Ordinance"), that:

(1) Tender and Paying Agent is making a drawing under the Letter of Credit in the amount of \$ \_\_\_\_\_ with respect to the payment of interest due or to become due on outstanding Bonds (other than Bank Bonds, as such term is defined below, and other than Bonds upon maturity, redemption, or purchase), on \_\_\_\_\_, 19\_\_, for a period which begins on \_\_\_\_\_, 19\_\_, and continues through \_\_\_\_\_, 19\_\_. The Tender and Paying Agent has calculated the total dollar amount of interest as follows:

Applicable Interest Rate  
(not to exceed 12% per annum): \_\_\_\_\_

Effective Period (not to exceed 37 days): \_\_\_\_\_

Amount Due: \_\_\_\_\_

(2) The amount demanded hereunder does not exceed the amount available on the date hereof to be drawn under the Letter of Credit, or the amount which the Tender and Paying Agent is required to draw on the date hereof under the Bond Ordinance.

(3) The undersigned requests that the payment hereby demanded be made no later than 11:00 a.m., Seattle, Washington time, on \_\_\_\_\_ [if this certificate is presented at or before 12:00 noon, Seattle, Washington time, on a Business Day, then insert a date which is a Business Day and is after the date this certificate is delivered; if this certificate is delivered after 12:00 noon, Seattle, Washington time, on a Business Day, then insert a date which is a Business Day and which is no earlier

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G \_\_\_\_\_

INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

This is page 6 which forms an integral part of this  
Irrevocable Letter of Credit No. G\_\_\_\_\_

than the second Business Day following the date this certificate is delivered]. Unless otherwise agreed to in a writing signed by you and us, please wire transfer the amount hereby demanded to the \_\_\_\_\_ Department of \_\_\_\_\_ [Insert name and address of Tender and Paying Agent].

(4) The date on which payment is demanded is the date on which the amount drawn hereby is due and payable on the Bonds. The undersigned will apply the same, or cause the same to be applied, directly to the payment when due of the interest owing on account of the Bonds pursuant to the Bond Ordinance. No portion of said amount shall be applied for any other purpose, and no portion of said amount shall be commingled with other funds.

(5) The Tender and Paying Agent acknowledges that it may not draw for Bank Bonds. As used in this Annex, the term "Bank Bonds" means those Bonds or portions of Bonds on which a principal payment is made or deemed made or the purchase price is paid or deemed paid with proceeds of a drawing under the Letter of Credit.

Any capitalized term used herein and not defined shall have the meaning assigned to such term in the Letter of Credit or, if not therein defined, as defined in the Reimbursement Agreement or in the Bond Ordinance.

The individual signing below hereby represents that he or she is an officer of the undersigned and is duly authorized to execute and deliver this document.

IN WITNESS WHEREOF, the Tender and Paying Agent has executed and delivered this Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_, as Tender and Paying Agent

By \_\_\_\_\_  
Title \_\_\_\_\_

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G\_\_\_\_\_

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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

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Irrevocable Letter of Credit No. G\_\_\_\_\_

## ANNEX B

CERTIFICATE FOR MATURITY OR REDEMPTION DRAWING

Seafirst Bank  
Fifth Avenue Plaza Building  
800 Fifth Avenue, Floor 31  
Seattle, Washington 98104  
Attention: International Trade Operations Department

Re: Irrevocable Letter of Credit No. G\_\_\_\_\_ issued by Bank of America National Trust and Savings Association, doing business as Seafirst Bank, regarding King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds")

The undersigned, a duly authorized officer of \_\_\_\_\_, in its capacity as Tender and Paying Agent (the "Tender and Paying Agent"), hereby certifies to Bank of America National Trust and Savings Association, doing business as Seafirst Bank (the "Bank"), with reference to the Irrevocable Letter of Credit referred to above (the "Letter of Credit") issued in favor of the Tender and Paying Agent pursuant to the Reimbursement Agreement dated as of April 1, 1997 (the "Reimbursement Agreement"), between the Bank and King County, Washington (the "County") with respect to the King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds"), and King County Ordinance No. 97-177 adopted by the King County Council on \_\_\_\_\_, 1997 (the "Bond Ordinance"), that:

(1) The Tender and Paying Agent is making a drawing under the Letter of Credit in the amount of \$\_\_\_\_\_ with respect to the payment of principal of outstanding Bonds (other than Bank Bonds, as such term is defined below), due [specify: at maturity/upon redemption]. Tender and Paying Agent is also making a drawing with respect to interest accrued thereon in the amount of \$\_\_\_\_\_, calculated as follows:

Applicable Interest Rate  
(not to exceed 12% per annum): \_\_\_\_\_

Effective Period (not to exceed 37 days): \_\_\_\_\_

Amount Due: \_\_\_\_\_

If this drawing is upon redemption, such redemption is a [specify: full/partial] redemption.

(2) The amount demanded hereunder does not exceed the amount available on the date hereof to be drawn under the Letter of Credit, or the amount which the Tender and Paying Agent is required to draw on the date hereof under the Bond Ordinance.

(3) The undersigned requests that the payment hereby demanded be made no later than 11:00 a.m., Seattle, Washington time, on \_\_\_\_\_ [if this certificate is presented at or before 12:00 noon, Seattle, Washington time, on a Business Day, then insert a date which is a Business Day

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G\_\_\_\_\_

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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

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Irrevocable Letter of Credit No. G \_\_\_\_\_

and is after the date this certificate is delivered; if this certificate is delivered after 12:00 noon, Seattle, Washington time, on a Business Day, then insert a date which is a Business Day and which is no earlier than the second Business Day following the date this certificate is delivered]. Unless otherwise agreed to in a writing signed by you and us, please [deposit/wire transfer] the amount hereby demanded to the \_\_\_\_\_ Department of \_\_\_\_\_ [Insert name and address of Tender and Paying Agent].

(4) The date on which payment is demanded is the date on which the amount drawn hereby is due and payable on the Bonds. The undersigned will apply the same, or cause the same to be applied, directly to the payment when due of the principal and interest owing on account of the Bonds pursuant to the Bond Ordinance. No portion of said amount shall be applied for any other purpose, and no portion of said amount shall be commingled with other funds.

(5) If the drawing with respect to which this Annex B is delivered is the last drawing to be made under the Letter of Credit or exhausts the remaining Credit, the Tender and Paying Agent hereby confirms to you that Tender and Paying Agent has or will promptly on this Business Day deliver to the Bank, at Public Sector Banking, 800 Fifth Avenue, 34th Floor, Seattle, Washington 98104, Attention: Manager, an assignment of all right, title and interest of the Tender and Paying Agent in all moneys remaining in the Escrow Fund, in form and substance satisfactory to the Bank. These items have been conditionally delivered to the Bank: delivery shall not be effective until the date you honor the drawing with respect to which this Annex B and all funds pursuant hereto are delivered.

(6) The Tender and Paying Agent acknowledges that it may not draw for Bank Bonds. As used in this Annex, the term "Bank Bonds" means those Bonds or portions of Bonds on which a principal payment is made or deemed made or the purchase price is paid or deemed paid with proceeds of a drawing under the Letter of Credit.

The individual signing below hereby represents that he or she is an officer of the undersigned and is duly authorized to execute and deliver this document.

Any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit or, if not therein defined, as defined in the Reimbursement Agreement or the Bond Ordinance.

IN WITNESS WHEREOF, the Tender and Paying Agent has executed and delivered this Certificate as of the \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_, as Tender and Paying Agent

By \_\_\_\_\_  
Title \_\_\_\_\_

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G \_\_\_\_\_



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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

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Irrevocable Letter of Credit No. G \_\_\_\_\_

ANNEX C

CERTIFICATE FOR LIQUIDITY DRAWING

Seafirst Bank  
Fifth Avenue Plaza Building  
800 Fifth Avenue, Floor 31  
Seattle, Washington 98104  
Attention: International Trade Operations Department

Re: Irrevocable Letter of Credit No. G \_\_\_\_\_ issued by Bank of America National Trust and Savings Association, doing business as Seafirst Bank, regarding King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds")

The undersigned, a duly authorized officer of \_\_\_\_\_, in its capacity as Tender and Paying Agent (the "Tender and Paying Agent"), hereby certifies to Bank of America National Trust and Savings Association, doing business as Seafirst Bank (the "Bank"), with reference to the Irrevocable Letter of Credit referred to above (the "Letter of Credit") issued in favor of the Tender and Paying Agent pursuant to the Reimbursement Agreement dated as of April 1, 1997 (the "Reimbursement Agreement"), between the Bank and King County, Washington (the "County") with respect to the King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds"), and King County Ordinance No. 97-177 adopted by the King County Council on \_\_\_\_\_, 1997 (the "Bond Ordinance"), that:

(1) The Tender and Paying Agent is making a drawing under the Letter of Credit in the amount of \$ \_\_\_\_\_ with respect to the payment of the purchase price corresponding to principal of outstanding Bonds to be purchased from the owners thereof pursuant to Article \_\_\_\_\_ of the Bond Ordinance, plus interest accrued thereon to the date on which payment is demanded hereunder in the amount of \$ \_\_\_\_\_; and for the payment of which moneys are not otherwise available pursuant to the Bond Ordinance, and a tender has been made to the Tender and Paying Agent (or is deemed to have been made) in connection with this drawing of a principal amount of Bonds equal to the principal amount demanded hereby. Interest has been calculated as follows:

Applicable Interest Rate  
(not to exceed 12% per annum): \_\_\_\_\_

Effective Period (not to exceed 37 days): \_\_\_\_\_

Amount Due: \_\_\_\_\_

(2) The Tender and Paying Agent will hold the tendered Bonds as Bank Bonds (as defined below) in connection with which this drawing is being made.

(3) The date on which payment is demanded is the date on which the amount drawn hereby will be used to purchase tendered Bonds. The amount demanded hereunder does not exceed the amount available on the date hereof to be drawn under the Letter of Credit or the amount which

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G \_\_\_\_\_

INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

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Irrevocable Letter of Credit No. G \_\_\_\_\_

the Tender and Paying Agent is required to draw on the date hereof for the purchase of tendered Bonds under the Bond Ordinance.

(4) The undersigned requests that the payment hereby demanded be made no later than 12:00 noon, Seattle, Washington time, on \_\_\_\_\_ [if this certificate is presented at or before 9:00 a.m., Seattle, Washington time, on a Business Day, then insert a date which is a Business Day and is on or after the date this certificate is delivered; if this certificate is delivered after 9:00 a.m., Seattle, Washington time, on a Business Day, then insert a date which is a Business Day and which is no earlier than the next Business Day following the date this certificate is delivered]. Unless otherwise agreed to in a writing signed by you and us, please [deposit/wire transfer] the amount hereby demanded to our account number [insert account number] with \_\_\_\_\_ [insert name and address of banking institution to receive funds].

(5) The undersigned will apply the amount demanded hereby or cause the same to be applied directly to the payment when due of the purchase price owing on the account of the purchase of Bonds pursuant to Article of the Bond Ordinance. No portion of said amount shall be applied for any other purpose and no portion of said amount shall be commingled with other funds.

(6) The Tender and Paying Agent acknowledges that it may not draw for Bank Bonds. As used in this Annex, the term "Bank Bonds" means those Bonds or portions of Bonds on which a principal payment is made or deemed made or the purchase price is paid or deemed paid with proceeds of a drawing under the Letter of Credit.

Any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit or, if not therein defined, then as defined in the Reimbursement Agreement or the Bond Ordinance.

The individual signing below hereby represents that he or she is an officer of the undersigned and is duly authorized to execute and deliver this document.

IN WITNESS WHEREOF, the Tender and Paying Agent has executed and delivered this Certificate as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_, as Tender and Paying Agent

By \_\_\_\_\_  
Title \_\_\_\_\_

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G \_\_\_\_\_

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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

This is page 11 which forms an integral part of this  
Irrevocable Letter of Credit No. G \_\_\_\_\_

## ANNEX D

NOTICE OF DIRECTION TO TENDER AND PAYING AGENT TO MAKE  
A DRAWING UNDER LETTER OF CREDIT

Date: \_\_\_\_\_

To: [Insert name and address of Tender and Paying Agent]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_ Department

Re: Irrevocable Letter of Credit No. G \_\_\_\_\_ issued by Bank of America National Trust and Savings Association, doing business as Seafirst Bank, regarding King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds")

Ladies and Gentlemen:

Reference is made to the Reimbursement Agreement dated as of April 1, 1997 (the "Reimbursement Agreement"), between King County, Washington (the "County") and Bank of America National Trust and Savings Association, doing business as Seafirst Bank, pursuant to which there exists a Default (as defined in the Reimbursement Agreement) under Section ^C thereof.

Please be advised (i) that in accordance with the Reimbursement Agreement and Section 2.04(b)(ii) of the Bond Ordinance, we are directing you, as Tender and Paying Agent, to effect a mandatory purchase of all Bonds; and as the beneficiary of the Letter of Credit, to make a drawing under the Letter of Credit for the purchase price of all outstanding Bonds pursuant to Section 2.14 of the Bond Ordinance; and (ii) THAT AS A CONSEQUENCE OF SUCH DIRECTION YOU MAY MAKE A DRAWING UNDER THE LETTER OF CREDIT NO LATER THAN 15 DAYS AFTER YOUR RECEIPT OF THIS NOTICE, AFTER WHICH DAY THE LETTER OF CREDIT WILL EXPIRE.

Very truly yours,

BANK OF AMERICA NATIONAL TRUST AND  
SAVINGS ASSOCIATION, doing business as  
Seafirst Bank

By \_\_\_\_\_  
Title \_\_\_\_\_

cc: Remarketing Agent  
County

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Irrevocable Letter of Credit Number G \_\_\_\_\_

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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

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Irrevocable Letter of Credit No. G \_\_\_\_\_

ANNEX E

CONFIRMATION OF PERMANENT REDUCTION OF STATED AMOUNT

Date: \_\_\_\_\_

Seafirst Bank  
Fifth Avenue Plaza Building  
800 Fifth Avenue, Floor 31  
Seattle, Washington 98104  
Attention: International Trade Operations Department

Re: Irrevocable Letter of Credit No. G \_\_\_\_\_ issued by Bank of America National Trust and Savings Association, doing business as Seafirst Bank, regarding King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds")

Ladies and Gentlemen:

This is to confirm that on the date hereof \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) have been permanently defeased, paid, redeemed, and/or cancelled in principal amount of the King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds") pursuant to a drawing made under Annex B to the Letter of Credit, in accordance with the terms of King County Ordinance No. 97-177 adopted by the King County Council on \_\_\_\_\_, 1997 (the "Bond Ordinance"). In accordance with the Letter of Credit, we confirm that the amount of the Letter of Credit is reduced by such drawing in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

Following the redemption or cancellation referred to above, the aggregate principal amount of all the Bonds which are outstanding within the meaning of the Bond Ordinance is \$ \_\_\_\_\_.

Any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit or, if not defined therein, as such term is defined in the Bond Ordinance.

The individual signing below hereby represents that he or she is authorized to sign this document on behalf of the Tender and Paying Agent.

\_\_\_\_\_, as Tender and Paying Agent

By \_\_\_\_\_  
Title \_\_\_\_\_

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G \_\_\_\_\_

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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

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Irrevocable Letter of Credit No. G \_\_\_\_\_

ANNEX F

FORM OF TRANSFER INSTRUCTION

Date: \_\_\_\_\_

Seafirst Bank  
Fifth Avenue Plaza Building  
800 Fifth Avenue, Floor 31  
Seattle, Washington 98104  
Attention: International Trade Operations Department

Re: Irrevocable Letter of Credit No. G \_\_\_\_\_ issued by Bank of America National Trust and Savings Association, doing business as Seafirst Bank, regarding King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds")

Ladies and Gentlemen:

For value received, the undersigned beneficiary (the "Transferor") hereby irrevocably transfers to:

(Name of Transferee): \_\_\_\_\_  
(Address): \_\_\_\_\_

(the "Transferee") all rights of the Transferor with respect to the above-referenced Irrevocable Letter of Credit (the "Letter of Credit") including the right to draw under said Letter of Credit in the amount of the full unutilized balance thereof. Said Transferee has succeeded the Transferor as Tender and Paying Agent under King County Ordinance No. 97-177 adopted by the King County Council on \_\_\_\_\_, 1997 (the "Bond Ordinance").

By virtue of this transfer, the Transferee shall have the sole right as beneficiary of said Letter of Credit, including sole rights relating to any past or future amendments thereof, whether increases or extensions or otherwise. All amendments are to be advised directly to the Transferee without necessity of any consent of or notice to the Transferor.

By its signature below, the Transferee acknowledges that it has duly succeeded the Transferor as Tender and Paying Agent under the Bond Ordinance, and agrees to be bound by terms of the Bond

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G \_\_\_\_\_

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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

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Irrevocable Letter of Credit No. G \_\_\_\_\_

Ordinance as if it were the original Tender and Paying Agent thereunder. Your standard transfer fee accompanies this certificate, or you have previously acknowledged receipt of such fee.

The Letter of Credit is returned herewith, and we ask you to reissue the Letter of Credit directly to the Transferee.

Very truly yours,

\_\_\_\_\_, as Tender and Paying Agent

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature of the above party, duly authorized  
to act on behalf of [Insert Name of Tender and Paying Agent].

Authenticated by:

\_\_\_\_\_  
[Name and Title]

Acknowledged by [Insert Name of Transferee]  
as Transferee and Successor Tender and Paying  
Agent

By \_\_\_\_\_  
[Insert Name and Title of Authorized Officer]

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Irrevocable Letter of Credit Number G \_\_\_\_\_

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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

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Irrevocable Letter of Credit No. G\_\_\_\_\_

ANNEX G

NOTICE OF SUBSTITUTION OF LETTER OF CREDIT

Date: \_\_\_\_\_

Seafirst Bank  
Fifth Avenue Plaza Building  
800 Fifth Avenue, Floor 31  
Seattle, Washington 98104  
Attention: International Trade Operations Department

Re: Irrevocable Letter of Credit No. G\_\_\_\_\_ issued by Bank of America National Trust and Savings Association, doing business as Seafirst Bank, regarding King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds")

Ladies and Gentlemen:

Reference is made to the above-referenced Irrevocable Letter of Credit and King County Ordinance No. 97-177 adopted by the King County Council on \_\_\_\_\_, 1997 (the "Bond Ordinance").

The undersigned hereby certifies to Bank of America National Trust and Savings Association, doing business as Seafirst Bank, with respect to the above Letter of Credit, that the County has satisfied the conditions precedent in the Bond Ordinance regarding the acceptance of a Substitute Letter of Credit or Alternate Credit Facility, and that we have accepted such Substitute Letter of Credit or Alternate Credit Facility in replacement and termination of your Letter of Credit No. G\_\_\_\_\_.

We are delivering herewith the Letter of Credit for cancellation.

The individual signing below hereby represents that he or she is an officer of the undersigned and is duly authorized to execute and deliver this document.

\_\_\_\_\_  
(Tender and Paying Agent and Beneficiary)

By \_\_\_\_\_  
Title \_\_\_\_\_

Continued on the following page, which forms an integral part of this  
Irrevocable Letter of Credit Number G\_\_\_\_\_

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INTERNATIONAL TRADE OPERATIONS  
800 FIFTH AVENUE, FLOOR 31, SEATTLE, WASHINGTON 98104  
P.O. BOX 3977, SEATTLE, WASHINGTON 98124

This is page 16 which forms an integral part of this  
Irrevocable Letter of Credit No. G \_\_\_\_\_

ANNEX H

NOTICE OF CONVERSION TO FIXED INTEREST RATE

Date: \_\_\_\_\_

Seafirst Bank  
Fifth Avenue Plaza Building  
800 Fifth Avenue, Floor 31  
Seattle, Washington 98104  
Attention: International Trade Operations Department

Re: Irrevocable Letter of Credit No. G \_\_\_\_\_ issued by Bank of America National Trust and Savings Association, doing business as Seafirst Bank, regarding King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds")

Ladies and Gentlemen:

Reference is hereby made to the terms of King County Ordinance No. 97-177 adopted by the King County Council on \_\_\_\_\_, 1997 (the "Bond Ordinance"), which provides for issuance of the King County, Washington Limited Tax General Obligation Variable Rate Demand Bonds 1997, Series D (the "Bonds").

This is to notify you that on \_\_\_\_\_ (the "Conversion Date") the Bonds will be converted to a Fixed Rate.

Any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit or, if not defined therein, as such term is defined in the Bond Ordinance.

The individual signing below hereby represents that he or she is authorized to sign this document on behalf of the Tender and Paying Agent.

Yours very truly,

\_\_\_\_\_, as Tender and Paying Agent

By \_\_\_\_\_  
Title \_\_\_\_\_



12686

**EXHIBIT F,**

**KING COUNTY, WASHINGTON,  
LIMITED TAX GENERAL OBLIGATION BONDS  
\$151,000,000 1997 Series B (Baseball Stadium)  
\$25,000,000 1997 Series C (Taxable) (Stadium Parking Facilities)**

**BOND PURCHASE CONTRACT**

**April 2, 1997**

**KING COUNTY COUNCIL  
King County Courthouse, 12th Floor  
Seattle, Washington 98104**

**Dear Councilmembers:**

Smith Barney Inc. (the "Representative"), acting on behalf of ourselves, and on behalf of the underwriters named in the list attached hereto as Schedule 1 (the Representative and such underwriters being collectively referred to herein as the "Purchasers") offers to enter into this Bond Purchase Contract with King County, Washington (the "County"). The offer made hereby is subject to acceptance by the County by execution and delivery of this Bond Purchase Contract (the "Bond Purchase Contract") to the Representative at or prior to 6:00 p.m., Seattle, Washington time, on the date first above written, and if not so accepted will be subject to withdrawal by the Purchasers upon notice delivered to the County at any time prior to the acceptance hereof by the County. Upon acceptance of this offer by the County in accordance with the terms hereof, this Bond Purchase Contract will be binding upon the County and upon the Purchasers, jointly and severally. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Official Statement or the Bond Ordinance (each as hereinafter defined).

1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties, covenants and agreements hereinafter set forth, the Purchasers hereby agree, jointly and severally, to purchase from the County for offering to the public, and the County hereby agrees to sell to the Purchasers for such purpose, all (but not less than all) of the \$151,000,000

aggregate principal amount of the County's Limited Tax General Obligation Bonds, 1997 Series B (Baseball Stadium) (the "Series B Bonds") and the \$25,000,000 aggregate principal amount of the County's Limited Tax General Obligation Bonds, 1997 Series C (Taxable) (Stadium Parking Facilities) (the "Series C Bonds", and together with the Series B Bonds, the "Bonds"). The Bonds shall be dated April 1, 1997, shall bear interest payable December 1, 1997 and thereafter semiannually each June 1 and December 1 at the rates and shall mature or be subject to mandatory sinking fund redemption on December 1 in each year in the amounts, and shall be subject to optional redemption and extraordinary mandatory redemption prior to maturity thereof, all as set forth in the attached Schedule 2, which is incorporated herein by this reference. The purchase price for the Series B Bonds, shall be \$153,577,900, which includes the aggregate principal amount of \$151,000,000 plus original issue premium of \$2,577,900, plus accrued interest on the Series B Bonds from April 1, 1997 to the date of the Closing (hereinafter defined). The purchase price for the Series C Bonds shall be \$25,000,000 plus accrued interest on the Series C Bonds from April 1, 1997 to the date of the Closing. The Purchasers will be paid an Underwriting Fee (the "Underwriting Fee") of \$523,453.75, which amount shall be paid at Closing from proceeds of the County's Series A Bonds.

2. The Bonds. The Bonds shall be issued in accordance with chapters 36.67 and 39.46 of the Revised Code of Washington and the County Charter and Chapter 1, Laws of 1995, 3<sup>rd</sup> Sp. Sess. (together, the "Act"). The Bonds are authorized and being issued under the provisions of Ordinances Nos. 12000, 12593 and \_\_\_\_\_ of the King County Council (the "County Council") adopted on October 23, 1995, January 6, 1997 and April 2, 1997, respectively, (together, the "Bond Ordinance"). Principal of and premium, if any, on the Bonds are payable at either of the principal offices of the fiscal agencies of the State of Washington (the "State") in Seattle, Washington or New York, New York as bond registrar and paying agent, currently Wells Fargo Bank, National Association and The Bank of New York (or such other fiscal agency or agencies as the County Finance Director may from time to time designate). The proceeds of the Bonds will be deposited by the County into its Equipment and Building Acquisition Fund and immediately transferred to the Washington State Major League Baseball Stadium Public Facilities District (the "PFD") for deposit with The Bank of New York (the "Escrow Agent") pursuant to the terms of an Escrow Fund Deposit Agreement by and between the PFD and the Escrow Agent (the "Escrow Agreement"), the form of which has been provided to the Representative. The Bonds are being issued for such purposes and shall otherwise be as described in the Bond Ordinance and the Official Statement.

3. Official Statement. The County hereby ratifies, approves and confirms the distribution of the Preliminary Official Statement of the County with respect to the Bonds, dated March 24, 1997 (together with the Appendices

thereto, any documents incorporated therein by reference, and any supplements or amendments thereto, the "Preliminary Official Statement"), in connection with the public offering and sale of the Bonds by the Purchasers prior to the availability of the Official Statement. The County represents and warrants that the Preliminary Official Statement was deemed final by the County as of its date for purposes of Rule 15c2-12, as originally promulgated and thereafter amended by the Securities and Exchange Commission ("Rule 15c2-12"), except for the omission of such information as is permitted by Rule 15c2-12. The County shall provide the Purchasers, within seven (7) business days from the date hereof, with a reasonable number of copies of the Official Statement, as requested by the Purchasers, in the form of the Preliminary Official Statement with such changes thereto as have been approved by the Purchasers for distribution. The County hereby authorizes and approves the distribution by the Purchasers of the Official Statement in connection with the public offering and sale of the Bonds. The Official Statement, including the Appendices thereto, any documents incorporated therein by reference, and any supplements or amendments thereto on or prior to the Closing is herein sometimes referred to as the "Official Statement."

4. Representations, Warranties, Covenants and Agreements of the County. The County represents and warrants to and covenants and agrees with the Purchasers that, as of the date hereof:

(a) The County has the full legal right, power and authority to enter into this Bond Purchase Contract, to adopt the Bond Ordinance, to observe, perform and consummate the covenants, agreements and transactions contemplated by this Bond Purchase Contract, the Bond Ordinance and the Official Statement and to issue, sell and deliver the Bonds to the Purchasers as provided herein; by all necessary official action of the County prior to or concurrently with the acceptance hereof, the County has duly adopted the Bond Ordinance in accordance with the Act and authorized and approved the Preliminary Official Statement and the Official Statement and the distribution thereof by the Purchasers; the Bond Ordinance is in full force and effect and has not been amended, modified or rescinded; the County has duly authorized and approved the execution and delivery of, and the performance by the County of its obligations contained in, the Bonds, the Official Statement and this Bond Purchase Contract; the County has duly authorized and approved the performance by the County of its obligations contained in the Bond Ordinance and the consummation by it of all other transactions contemplated by this Bond Purchase Contract to have been performed or consummated at or prior to the date of Closing; and the County is in compliance in all respects with the terms of the Act and with the obligations in connection with the issuance of the Bonds on its part contained in the Bond Ordinance, the Bonds and this Bond Purchase Contract.

**(b) As of the date thereof, the Preliminary Official Statement (except for information regarding The Depository Trust Company ("DTC") and its book-entry only system) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.**

**(c) As of the date thereof and at all times subsequent thereto up to and including the end of the underwriting period (as such term is defined in Rule 15c2-12), the Official Statement (except for information regarding DTC and its book-entry only system), as supplemented and amended in accordance herewith, will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.**

**(d) If the Official Statement is supplemented or amended pursuant to Paragraph 4(e) hereof, at the time of each supplement or amendment thereto and at all times subsequent thereto up to and including the end of the underwriting period, the Official Statement (except for information regarding DTC and its book-entry only system) as so supplemented or amended will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.**

**(e) If between the date of the Preliminary Official Statement and the end of the underwriting period (i) any event shall occur or any fact or condition shall become known to the County which might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the County shall notify the Purchasers thereof, and (ii) in the reasonable opinion of the Purchasers such event, fact or condition requires the preparation and publication of a supplement or amendment to the Official Statement, the County will at its expense supplement or amend the Official Statement in a form and in a manner approved by the Purchasers, which approval shall not be unreasonably withheld.**

**(f) The County is duly organized and validly existing as a political subdivision of the State and, under the Constitution and laws of the State, including the Act, has full legal right, power, and authority to issue the**

Bonds for the purposes described in the Bond Ordinance and the Official Statement.

(g) Between the date hereof and the Closing, except as contemplated by the Official Statement, the County will not without the prior written consent of the Purchasers offer or issue any bonds, notes or other obligations for borrowed money, or incur any material liabilities, direct or contingent, or enter into any material transaction other than in the ordinary course of business, and there shall have not been any material adverse change in the condition, financial or physical, of the County or its properties.

(h) The County is not in violation of, or in breach of or in default under, any applicable constitutional provision, law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, or other agreement or instrument to which the County is a party or to which the County or any of its properties is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument; and the execution and delivery of this Bond Purchase Contract and the Bonds, the adoption of the Bond Ordinance, and compliance with the provisions of this Bond Purchase Contract, the Bond Ordinance and the Bonds, will not conflict with or constitute a breach of or default under any constitutional provision, law, administrative regulation, judgment, court decree, loan agreement, indenture, bond, note, resolution, agreement, or other instrument to which the County is subject, or by which it or any of its properties is bound, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any material lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its properties or under the terms of any such law, regulation or instrument, except as provided by the Bonds and the Bond Ordinance.

(i) Except as expressly set forth in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or threatened (i) in any way questioning the corporate existence of the County or the titles of the officers of the County to their respective offices; (ii) in any way contesting, affecting or seeking to prohibit, restrain or enjoin the issuance or delivery of any of the Bonds, or the levy or collection of the taxes and other revenues pledged to pay the principal of and interest on the Bonds, including, without limitation, the following taxes and revenues: Food and Beverage Taxes; Car Rental Taxes; County Sales Taxes; State Lottery

Receipts; Stadium Admissions Taxes; payments by or on behalf of the Club made pursuant to (A) the Ballpark Operations and Lease Agreement dated as of December 22, 1996, as amended, between the Club and the PFD and (B) Amendment No. 5; and State License Plate Receipts, or the pledge of such taxes and revenues, or the application of the proceeds of the Bonds; (iii) in any way contesting or affecting the validity of the Bonds, the Bond Ordinance or this Bond Purchase Contract or the tax-exempt status of the interest on the Series B Bonds, or contesting the powers of the County or any authority for the issuance of the Bonds, the adoption of the Bond Ordinance or the execution and delivery by the County of this Bond Purchase Contract; (iv) which may result in any material adverse change relating to the business, operations or financial condition of the County; or (v) contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement or asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) The County will furnish such information, execute such instruments and take such other action not inconsistent with law or established policy of the County in cooperation with the Purchasers as may be requested (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States of America as may be designated by the Purchasers, and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualifications in effect so long as required for the distribution of the Bonds; provided, however, that the County shall not be required to execute a general or special consent to service of process or qualify to do business in connection with any such qualification or determination in any jurisdiction.

(k) The Bonds and the Bond Ordinance conform in all material respects to the descriptions thereof contained in the Official Statement.

(l) The Bonds, when issued and delivered in accordance with the Bond Ordinance and sold to the Purchasers as provided herein, will be legal, valid and binding obligations of the County, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights generally, and the owners of the Bonds will be entitled to the benefits of the Bond Ordinance; upon such issuance and delivery the Bond Ordinance will provide, for the benefit of the owners from time to time of the Bonds, a legally valid and binding pledge of and lien on the funds and accounts pledged to such Bonds under the Bond

Ordinance and the taxes and other revenues pledged to such funds and accounts under the Bond Ordinance. This Bond Purchase Contract and the Bond Ordinance are legal, valid and binding obligations of the County enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditor's rights generally.

(m) All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would adversely affect the due performance by the County of, its respective obligations under this Bond Purchase Contract, the Bonds and the Bond Ordinance, have been duly obtained or where required for future performance are expected to be obtained, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Bonds.

(n) The audited financial statements of the County for the fiscal year ended December 31, 1995, set forth as Appendix B to the Official Statement, fairly present the financial position of the County as of the dates indicated and the sources and uses of its cash and the changes in its fund balances for the periods therein specified to the extent included therein, and are in conformity with generally accepted accounting principles applied on a consistent basis, and there has been no material adverse change in the financial condition of the County since the dates thereof.

(o) Any certificate signed by any official of the County and delivered to the Purchasers shall be deemed to be a representation and warranty by the County to the Purchasers as to the statements made therein.

(p) The County has not defaulted in the payment of principal of or interest on any of its bonds, notes or other evidences of indebtedness for borrowed money.

(q) The County has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the County is a bond issuer whose arbitrage certificates may not be relied upon.

(r) The County will undertake, pursuant to the Bond Ordinance, to provide certain annual financial information and notices of the occurrence of certain events, if material, pursuant to section (b)(5) of Rule 15c2-12. An

accurate description of this undertaking is set forth in the Preliminary Official Statement.

5. Offering. It shall be a condition to the County's obligations to sell and to deliver the Bonds to the Purchasers and to the Purchasers' obligations to purchase, to accept delivery of and to pay for the Bonds that all of the Bonds shall be issued, sold and delivered by the County and purchased, accepted and paid for by the Purchasers at the Closing. The Purchasers agree to make a bona fide public offering of all the Bonds, at not in excess of the initial public offering prices or the yields as set forth in the Official Statement, plus interest accrued thereon from the date of the Bonds. The Bonds may be offered and sold to certain dealers at prices lower than such public offering prices. Following the initial public offering period, at such time as all price restrictions shall be lifted by the Purchasers, the offering price may be changed from time to time by the Purchasers. On or prior to Closing, the Purchasers will provide the County with information regarding the reoffering prices and yields on the Bonds to the public, in such form as the County may reasonably request, for purposes of determining the yield on the Bonds under Section 148 of the Internal Revenue Code of 1986, as amended.

6. Closing. At 8:30 a.m., Seattle time, on April 17, 1997 or at such other time and/or date as shall have been mutually agreed upon by the County and the Purchasers, the County will deliver or cause to be delivered (through DTC) to the Purchasers the Bonds duly executed by the County, together with the other documents hereinafter mentioned; and the Purchasers will accept such delivery (through DTC) and pay the purchase price of the Bonds as set forth in Paragraph 1 hereof by wire transfer or by delivering to the County a certified check or checks, payable to the order of the County, in an aggregate amount equal to such purchase price, plus accrued interest, if any, on the Bonds from April 1, 1997 to the date of such payment.

Payment for the delivery of the Bonds as aforesaid shall be made at the offices of Preston Gates & Ellis LLP, in Seattle, Washington, or at such other place as shall have been mutually agreed upon by the County and the Purchasers. Such payment and delivery is herein called the "Closing." The Purchasers shall order CUSIP identification numbers and the County shall cause such CUSIP identification numbers to be printed on the Bonds, but neither the failure to print such number on any Bond nor any error with respect thereto shall constitute cause for a failure or refusal by the Purchasers to accept delivery of and pay for the Bonds in accordance with the terms of this Bond Purchase Contract. The Bonds will be delivered in New York, New York, will be prepared and delivered in registered form, bearing CUSIP numbers, and will be registered in the name of Cede & Co., as nominee of DTC. The Bonds will be made available to the Purchasers for checking not less than two (2) business days prior to the Closing.



7. Closing Conditions. The obligations of the Purchasers hereunder shall be subject to the performance by the County of its obligations hereunder at or prior to the Closing and are also subject to the following conditions:

(a) The representations and warranties of the County contained herein shall be true, complete and correct in all material respects at the date hereof and on and as of the date of the Closing as if made on the date of Closing.

(b) At the time of the Closing (i) the Bond Ordinance shall be in full force and effect, and shall not have been amended, modified or supplemented since the date hereof, except as shall have been agreed to in writing by the Purchasers; and (ii) the County shall perform or have performed its obligations required under or specified in this Bond Purchase Contract and the Bond Ordinance to be performed at or prior to the Closing.

(c) At the time of the Closing, there shall have been no material adverse change in the financial or physical condition of the County or its properties.

(d) At the time of the Closing, all official action of the County relating to this Bond Purchase Contract, the Official Statement, the Bonds and the Bond Ordinance shall be in full force and effect in accordance with their respective terms and such documents shall not have been amended, modified or supplemented in any material respect from the date hereof except as shall have been agreed to in writing by the Purchasers.

(e) Prior to the time of the Closing, the Series A Bonds shall have been issued and sold, and, at the Closing of the Bonds, the proceeds of the Series A Bonds shall be legally available, and sufficient, to pay the full Underwriting Fee.

(f) At or prior to the Closing, the Purchasers shall receive the following documents, in each case satisfactory in form and substance to the Purchasers and to their counsel, Graham & James LLP/Riddell Williams P.S.:

(1) The Official Statement and each supplement or amendment, if any, thereto, executed on behalf of the County by the Finance Director of the County;

(2) A certificate, dated the date of the Closing, of the County executed by the County Executive or other authorized

officer of the County, to the effect that, other than as set forth in the Official Statement, no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court, government agency, public board or body is pending or threatened (i) in any way questioning the corporate existence of the County or titles of the officers of the County to their respective offices; (ii) in any way contesting, affecting or seeking to prohibit, restrain or enjoin the issuance or delivery of any of the Bonds, or the levy or collection of the taxes and other revenues pledged or to be pledged to pay the principal of and interest on the Bonds, including, without limitation, the following taxes and revenues: Food and Beverage Taxes; Car Rental Taxes; County Sales Taxes; State Lottery Receipts; Stadium Admissions Taxes; payments by or on behalf of the Club made pursuant to (A) the Ballpark Operations and Lease Agreement dated as of December 22, 1996, as amended, between the Club and the PFD and (B) Amendment No. 5; and State License Plate Receipts, or the pledge of such taxes and other revenues, or the application of the proceeds of sale of the Bonds; (iii) in any way contesting or affecting the validity of the Bonds, the Bond Ordinance, the Act or this Bond Purchase Contract, or the tax-exempt status of the interest on the Series B Bonds or contesting the powers of the County or any authority for the issuance of the Bonds, or the adoption of the Bond Ordinance, or the execution and delivery by the County of this Bond Purchase Contract; (iv) which may result in any material adverse change relating to the operations or financial condition of the County; or (v) contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(3) Copies of the Bond Ordinance certified by the Clerk of the County Council as having been duly executed or adopted by the County and as being in full force and effect, with such changes or amendments as shall have been agreed to in writing by the Purchasers;

(4) The opinions of Preston Gates & Ellis LLP, Bond Counsel to the County, addressed to the Purchasers and dated the date of the Closing, in substantially the forms attached as Appendix A-1 and A-2 hereto, which are incorporated herein by this reference;

(5) An opinion of Graham & James LLP/Riddell Williams P.S., counsel to the Purchasers, dated the date of the Closing and addressed to the Purchasers, to the effect that (i) the Bonds are not required to be registered under the Securities Act of 1933, as amended, (ii) the Bond Ordinance need not be qualified with respect to the Bonds under the Trust Indenture Act of 1939, as amended, and (iii) the undertaking of the County pursuant to the Bond Ordinance to provide continuing disclosure with respect to the Bonds satisfies the requirements of section (b)(5) of Rule 15c2-12;

(6) The unqualified approving opinions of Preston Gates & Ellis LLP, Bond Counsel to the County, pertaining to the Series B Bonds and the Series C Bonds, each dated the date of the Closing, in substantially the forms attached to the Official Statement as Appendix A;

(7) The opinion of the Prosecuting Attorney of the County, addressed to the Purchasers and dated the date of the Closing, in substantially the form attached as Appendix B hereto, which is incorporated herein by this reference;

(8) A certificate, dated the date of the Closing, of the County executed by its County Executive or other authorized officer to the effect that on the date of the Official Statement and on the date of the certificate (i) the representations and warranties of the County contained in this Bond Purchase Contract were and are true and correct in all material respects, and the County has complied with all agreements and covenants and satisfied all conditions contemplated by this Bond Purchase Contract and the Bond Ordinance on its part to be performed or satisfied at or prior to the date of the Closing; (ii) insofar as the County and its affairs, including its financial affairs, are concerned, the Official Statement did not and does not contain any untrue statement of a material fact or omit any statement or information which is required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and (iii) insofar as the descriptions, statements and data, including financial data, of or pertaining to other bodies and their activities contained in the Official Statement are concerned, such descriptions, statements and data have been obtained from sources which the County believes to be reliable and the County has no reason to believe that they are untrue in any material respect or omit to state any material fact required to be stated therein or necessary to make the statements

therein, in light of the circumstances under which they were made, not misleading;

(9) A duly executed non-arbitrage certificate of the County in form satisfactory to Bond Counsel to the County;

(10) A duly executed copy of the Escrow Agreement, together with (i) an opinion of Foster Pepper & Shefelman, special finance counsel to the PFD, addressed to the PFD and the Escrow Agent and dated the date of the Closing, in substantially the form attached as Appendix C-1 hereto, together with a reliance letter in connection therewith, addressed to the Purchasers, dated the date of Closing, in substantially the form attached as Appendix C-2 hereto, each of which is incorporated herein by this reference; and (ii) a certificate of the Escrow Agent to the effect that (A) the person executing the Escrow Agreement is duly authorized to do so on behalf of the Escrow Agent. and (B) the Escrow Agreement is legal, valid and binding and is enforceable against the Escrow Agent in accordance with its terms;

(11) An opinion of the Prosecuting Attorney, dated the date of the Closing and addressed to the Purchasers, as to the due authorization, execution and delivery of the Financing Agreement and Amendment No. 5 (together the "Amended Financing Agreement") by the County, and the enforceability thereof against the County;

(12) An opinion of Preston Gates & Ellis LLP, counsel to the PFD, dated the date of the Closing and addressed to the Purchasers, as to the due authorization, execution and delivery by the PFD of the Amended Financing Agreement and the Ballpark Operations and Lease Agreement, dated as of December 23, 1996, as amended, between the Club and the PFD (the "Lease"), and the enforceability of each such document against the PFD;

(13) An opinion of Perkins Coie, counsel to the Club, dated the date of the Closing and addressed to the Purchasers, as to the due authorization, execution and delivery of the Lease by the Club and the enforceability thereof against the Club;

(14) A DTC Letter of Representation, executed by the County and accepted by DTC;

(15) Evidence satisfactory to the Purchasers that Moody's Investors Service and Standard & Poor's Ratings Group have assigned ratings of "Aa1" and "AA +", respectively, to the Bonds;

(16) Four transcripts of all proceedings relating to the authorization and issuance of the Bonds certified by the Chair or Clerk of the County Council or the County Executive of the County; and

(17) Such additional legal opinions, certificates, instruments and other documents as the Purchasers may reasonably deem necessary to evidence the truth and accuracy as of the time of the Closing of the representations and warranties of the County contained in Paragraph 4 of this Bond Purchase Contract and the due performance or satisfaction by the County at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the County pursuant to this Bond Purchase Contract.

8. Termination. The Purchasers may terminate this Bond Purchase Contract, without liability therefor, by notification to the County if at any time subsequent to the date of this Bond Purchase Contract and at or prior to the Closing:

(a) There shall occur any change, or any development involving a prospective change, in or affecting the operations or financial condition of the County which, in the reasonable opinion of the Purchasers, materially impairs the investment quality, the marketability or the market price of the Bonds;

(b) Legislation shall have been enacted by the Congress of the United States, or introduced by amendment or otherwise in or passed by either House of the Congress, or recommended or endorsed to the Congress for passage by the President of the United States, or favorably reported for passage to either House of the Congress of the United States by any committee of such House to which such legislation has been referred for consideration or recommended or endorsed for passage or presented for consideration by any member of any such committee or by the Treasury Department of the United States, the Internal Revenue Service, or the staff of the Joint Committee on Taxation of the Congress, or a decision shall have been rendered by a court of the United States, or the United States Tax Court, or an order, ruling, regulation (final, temporary or proposed) or official statement shall have been made by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency of appropriate

jurisdiction, the effect of which would be to cause interest on the Series B Bonds or upon interest received on securities of the general character of the Series B Bonds to be includable in gross income of the holders thereof for Federal income tax purposes, which in the reasonable opinion of the Purchasers would materially and adversely affect the marketability or the market price of the Series B Bonds;

(c) There shall have occurred a declaration of war by the United States, any new outbreak of hostilities, or any escalation of existing hostilities, or any other national or international calamity or crisis, the effect of such outbreak, escalation, calamity or crisis being such as, in the reasonable opinion of the Purchasers, would materially and adversely affect the marketability or the market price of the Bonds;

(d) There shall have occurred the declaration of a general banking moratorium by any authority of the United States or the State of New York or the State of Washington;

(e) There shall be in force a general suspension of trading or other material restrictions not in force as of the date hereof on the New York Stock Exchange or other national securities exchange;

(f) Any rating of bonds, notes or other obligations of the County (including, without limitation, the Bonds) shall have been downgraded, suspended or withdrawn, or the possibility of such a downgrading, suspension or withdrawal shall have been publicly announced, by Moody's Investors Service, Standard & Poor's Ratings Group or Fitch Investors Service and such action, in the reasonable opinion of the Purchasers, would materially and adversely affect the marketability or the market price of the Bonds;

(g) An event, fact or condition described in Paragraph 4(e) hereof shall have occurred or become known which, in the reasonable opinion of the Purchasers, would materially and adversely affect the ability of the Purchasers to market the Bonds or to enforce contracts for the sale of the Bonds and requires the preparation and publication of a supplement or amendment to the Official Statement;

(h) Any legislation, ordinance, rule or regulation shall be introduced in or enacted by any governmental body, board, department or agency of the State of Washington or the United States, or a decision by any court of competent jurisdiction within the State of Washington or any court of the United States shall be

rendered, affecting the County, which, in the reasonable opinion of the Purchasers, will materially adversely affect the marketability or the market price of the Bonds;

(i) Legislation shall be enacted, or a decision of a court of the United States shall be rendered or any action shall be taken by, or on behalf of, the Securities and Exchange Commission or any other governmental agency having jurisdiction in the subject matter which, in the opinion of counsel to the Purchasers, has the effect of requiring the contemplated distribution of the Bonds to be registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or the Bond Ordinance to be qualified under the Trust Indenture Act of 1939, as amended;

(j) The New York Stock Exchange, or any governmental authority, shall impose, as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force or being enforced, or increase materially those now in force, with respect to the extension of credit by, or the charges to the net capital requirements of, underwriters; or

(k) The Purchasers have received notification that the conditions set forth in Paragraph 7(e) above will not be satisfied prior to, or at the time of, the Closing, as appropriate.

If the County shall be unable to satisfy the conditions to the obligations of the Purchasers to purchase, to accept delivery of and to pay for the Bonds contained in Paragraph 7 of this Bond Purchase Contract or if the obligations of the Purchasers to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by Paragraph 8 of this Bond Purchase Contract, then, unless the Purchasers have waived such satisfaction or terminating event, this Bond Purchase Contract shall terminate and, except as set forth in Paragraph 10 hereof, neither the Purchasers nor the County shall be under any further obligation hereunder.

9. Fees and Expenses. The Purchasers shall be under no obligation to pay and the County shall pay or cause to be paid the fees and expenses incident to the performance of its obligations hereunder including but not limited to (a) the cost of the preparation and printing, or other reproduction (for distribution on or prior to the date hereof) of the Bond Ordinance; (b) the fees and disbursements of Preston Gates & Ellis LLP and any other experts or consultants retained by the County; (c) the cost of preparation and printing and signing of the Bonds and the registration of the Bonds in accordance with Paragraph 6; (d) the cost of preparation and printing of the Preliminary Official Statement and the cost

of preparation and printing of the Official Statement, and any supplements or amendments thereto; and (e) charges of rating agencies for the ratings of the Bonds. The Purchasers shall pay (1) the cost of preparation and printing of the Blue Sky and legal investment memoranda to be used by them, if any, and the cost, if any, of printing of this Bond Purchase Contract, (2) all advertising expenses incurred by them in connection with the public offering of the Bonds, (3) the fees and disbursements of Graham & James LLP/Riddell Williams P.S., counsel to the Purchasers, and (4) all other expenses incurred by them in connection with their public offering and distribution of the Bonds.

10. Survival of Provisions. The provisions of Paragraph 9 hereof and all the representations, warranties and agreements of the County made pursuant to this Bond Purchase Contract shall remain operative and in full force and effect and shall survive delivery of and payment for the Bonds hereunder or the termination of this Bond Purchase Contract, regardless of how caused.

11. Representations of Purchasers. The Purchasers are authorized to take any action under this Bond Purchase Contract required to be taken by the Purchasers.

12. Notices. Any notice or other communication to be given to the County under this Bond Purchase Contract (other than the acceptance hereof as specified in Paragraph 1 hereof) may be given by delivering the same in writing to the Director of Finance, King County, Washington, County Administration Building, 6th Floor, 500 Fourth Avenue, Seattle, Washington 98104; any notice or other communication to be given to the Purchasers under this Bond Purchase Contract may be given by delivering the same in writing to Smith Barney Inc., 601 Union Street, Suite 3400, Seattle, WA 98101, Attention: Jerry Bobo.

13. Governing Law. The validity, interpretation and performance of this Bond Purchase Contract shall be governed by the laws of the State of Washington.

14. Parties in Interest. This Bond Purchase Contract when accepted by the County in writing as heretofore specified shall constitute the entire agreement between the County and the Purchasers and is solely for the benefit of the County and the Purchasers (including the successors and assigns thereof). No other person shall acquire or have any right hereunder or by virtue hereof. All representations, warranties and agreements of the County in this Bond Purchase Contract shall remain operative and in full force and effect, regardless of (a) any investigation made by or on behalf of the Purchasers, (b) delivery of and payment for the Bonds hereunder, and (c) any termination of this Bond Purchase Contract.



15. Headings. The headings of the Sections of this Bond Purchase Contract are inserted for convenience only and shall not be deemed to be a part hereof.

16. Effectiveness. This Bond Purchase Contract shall become effective upon the execution of the acceptance hereof by the County Executive of the County and shall be valid and enforceable at the time of such acceptance.

17. Representative. The Representative hereby represents that it is authorized to act on behalf of the Purchasers, including, without limitation, in the execution of all consents and approvals provided for hereunder.

18. Counterparts. This Bond Purchase Contract may be executed in several counterparts, which together shall constitute one and the same instrument.

SMITH BARNEY INC.,  
as Representative

By: \_\_\_\_\_  
Director

Accepted and agreed to this 2nd day of  
April, 1997:

KING COUNTY, WASHINGTON

By: \_\_\_\_\_  
Brad Duerr  
Finance Director

## APPENDIX A-1

[Letterhead of Preston Gates & Ellis LLP]

\_\_\_\_\_, 1997

King County Council  
Seattle, Washington 98104

Smith Barney Inc., as Representative  
Seattle, Washington 98101

Re: \$176,000,000 KING COUNTY, WASHINGTON, LIMITED TAX  
GENERAL OBLIGATION BONDS, 1997 SERIES B (BASEBALL  
STADIUM) AND 1997 SERIES C (TAXABLE) (STADIUM PARKING  
FACILITIES)

At the request of King County, Washington (the "County"), we have served as Bond Counsel to the County for its issue of \$151,000,000 principal amount of Limited Tax General Obligation Bonds, 1997 Series B (Baseball Stadium) and \$25,000,000 principal amount of Limited Tax General Obligation Bonds, 1997 Series C (Taxable) (Stadium Parking Facilities) (collectively, the "Bonds").

In such connection we have examined such documents and satisfied ourselves as to such matters as we have deemed relevant and necessary in order to enable us to express the opinions set forth below.

All capitalized terms used but not defined herein shall have the respective meanings ascribed thereto in the Bond Purchase Contract, dated April 2, 1997 (the "Bond Purchase Contract") between the Representative of the Purchasers and the County. This opinion is being delivered to you pursuant to Paragraph 7(f)(4) of the Bond Purchase Contract.

It is our opinion that:

(1) The County is a political subdivision of the State of Washington duly organized and validly existing under the laws of the State of Washington.

(2) The County has all requisite right, power and authority to execute and deliver the Bond Purchase Contract, to adopt the Bond Ordinance, and to observe and perform its obligations thereunder, and to carry out the transactions contemplated thereby, including, without limitation, the payment to the Purchasers of the Underwriting Fee from the proceeds of the Series A Bonds, and the County

has duly authorized, executed and delivered the Bond Purchase Contract and the Bond Purchase Contract and the Bond Ordinance constitute the legal, valid and binding obligations of the County enforceable in accordance with their respective terms except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights and remedies of creditors and by the availability of equitable remedies.

(3) The Bonds and all agreements related thereto are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Bond Ordinance is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

(4) The execution and delivery by the County of the Bonds and the Bond Purchase Contract, and the adoption by the County of the Bond Ordinance and compliance with the provisions on the County's part contained therein will not conflict with or constitute a material breach of or default under any constitutional provisions, law or regulation of the United States, the State or the County.

(5) Other than as set forth in the Official Statement, no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court, government agency, public board or body is pending or threatened (i) in any way questioning the corporate existence of the County or titles of the officers of the County to their respective offices; (ii) in any way contesting, affecting or seeking to prohibit, restrain or enjoin the issuance or delivery of any of the Bonds, or the levy or collection of the taxes and other revenues pledged or to be pledged to pay the principal of and interest on the Bonds, without limitation, the following taxes and revenues: Food and Beverage Taxes; Car Rental Taxes; County Sales Taxes; State Lottery Receipts; Stadium Admissions Taxes; payments by or on behalf of the Club made pursuant to (A) the Ballpark Operations and Lease Agreement dated as of December 22, 1996, as amended, between the Club and the PFD and (B) Amendment No. 5; and State License Plate Receipts, or the pledge of such taxes and other revenues, or the application of the proceeds of sale of the Bonds; (iii) in any way contesting or affecting the validity of the Reimbursement Agreement, the Bonds, the Bond Ordinance, the Act or the Bond Purchase Contract, or the tax-exempt status of the interest on the Bonds or contesting the powers of the County or any authority for the issuance of the Bonds, or the adoption of the Bond Ordinance, or the execution and delivery by the County of the Reimbursement Agreement or the Bond Purchase Contract; (iv) which may result in any material adverse change relating to the operations or financial condition of the County; or (v) contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary

to make the statements therein, in light of the circumstances under which they were made, not misleading, and there is no basis for any such action, suit, proceeding, inquiry or investigation of the nature described above.

(6) The statements contained in the Official Statement (except for information regarding DTC and its book-entry only system) under the captions "The Bonds," "Security and Sources of Payment for the Bonds," "Tax Exemption for the Series B Bonds," "No Tax Exemption for the Series C Bonds" and "Continuing Disclosure Undertaking," insofar as such statements purport to summarize provisions of the Bonds and the Bond Ordinance and to describe the treatment of interest on the Bonds under Federal income tax laws, present a fair and accurate summary of such provisions, and the statements of law and legal conclusions stated therein are correct.

(7) Although we have not verified and are not passing upon, and do not assume any responsibility for, the accuracy, completeness or fairness of the information contained in the Official Statement (except to the extent expressly set forth in paragraph (6) above), we have participated in the preparation of the Official Statement with officials of the County, Seattle-Northwest Securities Corporation, financial advisors to the County, the Purchasers, and Graham & James LLP/Riddell Williams P.S., counsel to the Purchasers, and, in the course of such participation, but without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, no facts have come to our attention that caused us to believe that the Official Statement (except for any financial, engineering or statistical data or forecasts, numbers, estimates, assumptions or expressions of opinion included therein, information regarding DTC and its book-entry only system) as of its date, or as of the date hereof, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

We consent to references to us contained in the Official Statement.

Very truly yours,

PRESTON GATES & ELLIS LLP

By: \_\_\_\_\_

## APPENDIX A-2

[Letterhead of Preston Gates & Ellis LLP]

April \_\_\_\_, 1997

King County, Washington  
Seattle, Washington

Smith Barney Inc.  
Seattle, Washington

**Re: King County Washington Limited Tax General Obligation Bonds, 1997 Series B, Series C and Series D**

Ladies and Gentlemen:

We have acted as bond counsel in the matter of the issuance by King County, Washington (the "County") of its Limited Tax General Obligation Bonds, 1997 Series B, Series C and Series D in the principal sum of \$326,000,000 (the "Bonds"), issued for the purpose of providing funding to the Washington State Major League Baseball Stadium Public Facilities District (the "District") to construct a professional baseball stadium (the "Project") pursuant to Chapter 1, Laws of 1995, Third Special Session (the "Act"), Ordinance No. 12000 of the County passed on October 23, 1995, Ordinance No. 12593 of the County passed on January 6, 1997 and Ordinance No. \_\_\_\_\_ of the County passed on April \_\_\_\_, 1997 (collectively, Ordinance 12593 and Ordinance \_\_\_\_\_ are called the "Bond Ordinance"). Capitalized terms used herein and not otherwise defined shall have the meanings given in the Bond Ordinance.

As part of our undertaking as bond counsel we have participated in drafting and are familiar with the description of the litigation and initiative regarding the Project described in the Official Statement dated \_\_\_\_\_, 1997.

A special validation action brought by the County with respect to the Bonds and certain related matters currently is pending (the "Validation Action"). On February 26, 1997, the King County Superior Court entered an Order (the "Superior Court Order") declaring among other things, that Ordinance 12593 was validly enacted, that the County has the authority to issue, sell and deliver the Bonds and that the Bonds, when issued, will be valid and enforceable obligations of the County. An appeal has been filed from the Superior Court Order directly with

the Washington State Supreme Court (the "State Supreme Court") by the taxpayers representative appointed to represent the taxpayers of King County in the Validation Action ("Taxpayers' Representative").

A number of arguments were made by the Taxpayers' Representative challenging the validity of the Bonds and the Bond Ordinance to the Superior Court. All such arguments were rejected by the Supreme Court. It is anticipated that all of the arguments made by the Taxpayers' Representative will be raised again in the appeal to the State Supreme Court.

In the opinion of Bond Counsel the only issue which could be raised by the Taxpayers' Representative to the State Supreme Court which could affect the validity of the Bonds upon their issuance and prior to any Extraordinary Mandatory Redemption is whether the Bond Ordinance is subject to referendum. Bond Counsel has been asked to render an opinion that the claim that the Bond Ordinance is subject to referendum is without merit.

### **Legal Analysis**

Under the King County Charter ("KCC"), Section 230.70, unless otherwise specified in the ordinance, the effective date of an ordinance is 10 days after its enactment. If an ordinance may be subjected to a referendum, and if a proposed referendum petition is submitted to the Clerk of the County Council prior to the 10th day after enactment of an ordinance, the effective date of the ordinance is 45 days after its enactment, unless a later date is specified in the ordinance. If an ordinance is subjected to referendum, it cannot become effective until it is approved by the voters.

Under the KCC certain ordinances are exempted from the referendum process. Bond Ordinances are not, by terms of the Charter, specifically exempted from the referendum process.

Ordinance 12593, adopted by the King County Council on January 6, 1997 was the subject of a referendum petition filed on January 7, 1997. For purposes of this Opinion, Bond Counsel has assumed that, if the referendum petition filed against Ordinance 12593 should have been submitted to the voters, Ordinance 12593 is invalid and any other subsequent ordinances of King County supplementary thereto authorizing the issuance of the Bonds will also be invalid.

While the KCC, like the State Constitution, sets forth broad referendum and initiative rights, it is clear from decided cases of the Washington Supreme Court that even under such broad charter and constitutional provisions the initiative and referendum are limited to subject matter which is legislative in nature, and that the initiative and the referendum do not apply to acts of government which are

administrative in nature. Ruano v. Spellman, 81 Wn.2d 820, 505 P.2d 447 (1973); Ford v. Logan, 79 Wn.2d, 147, 154, 483 P.2d 1247 (1971); Bidwell v. Bellevue, 65 Wash. App. 43, 827 P.2d 339 (1992); Miller v. Spokane, 35 Wn.2d 113, 211 P.2d 165 (1949). See also Trautman, Initiative and Referendum in Washington: A Survey, 49 Washington Law Review, 55.

Several criteria have been suggested for determining when an act of government is legislative or administrative. In Ruano v. Spellman, *supra*, an opponent of the Kingdome project in Seattle filed an initiative which, if enacted, would have prohibited further spending of funds on the Kingdome and in effect terminated the Kingdome project. King County filed an action in Superior Court to block the initiative and argued that all legislative decisions regarding the construction and financing of the Kingdome had been made and that only administrative decisions remained to implement the legislative decisions. The Superior Court agreed with King County and held the initiative invalid.

On appeal, the Supreme Court, in analyzing the question of whether any legislative decisions remained regarding the Kingdome, established the standard in Washington for distinguishing between legislative and administrative acts (81 Wn.2d at 820, 823).

"We believe a preferable standard, at least for this case, to be whether the proposition is one to make new law or declare a new policy, or merely to carry out and execute policy already in existence." People v. Centralia, 1 Illinois App.2d 228, 117 NE 410 (1953); Heider v. Common Council, 37 Wis.2d 66, 155 NW.2d 17 (1967).

The Supreme Court reviewed the actions taken by the County Council in determining to construct the Kingdome. The Superior Court had found that: (a) an option to purchase the site for the Kingdome was exercised at a cost in excess of \$4,000,000; (b) a \$2,000,000 contract for architectural and engineering services was executed; (c) a \$25,000 contract to provide soil testing was signed; (d) a contract for independent cost estimates and construction scheduling was entered into by the County; and (e) certain bids had been advertised and issued to interested bidders.

The Supreme Court went on to say, 81 Wn.2d 820 at 824:

Quite apart from the tests suggested by Paget, it must be concluded that only administrative decisions remained. By its vote the electorate had declared its legislative policy to build a multi-purpose stadium, to finance it by bonds, and to repay those bonds from specified sources. The legislative decision on site selection had been

made. No new law would be involved in expending funds for those declared purposes. The County and its agents in making those expenditures simply were executing an already adopted legislative determination.

The Supreme Court held therefore that only administrative decisions remained with reference to the Kingdome Project and that the proposed initiative should be rejected.

To the same effect is Bidwell v. Bellevue, 65 Wash. App. 43, 827 P.2d 339 (1992). In that case the question before the court was whether an initiative petition requiring a vote of the people prior to the issuance of bonds to finance a Convention Center should be scheduled for a vote. In the Bidwell case, the appellate court also reviewed the history of events leading to the decision to issue bonds. Over the course of a year the City of Bellevue had (1) appointed a citizens committee to study the feasibility of a convention center; (2) adopted a resolution establishing the scope of the project and announced its intent to proceed with design, financing and construction of the convention center; (3) authorized the City Manager to begin acquisition of property for the convention center and selected an architect; (4) held a public meeting on whether to proceed with the convention center; (5) created the Bellevue Convention Center Authority ("BCCA") to carry out the construction and operation of the Center; (6) authorized the execution of leases and other agreements; and (7) authorized the BCCA to issue bonds.

After the above-described review, the appellate court concluded, citing Ruano, supra, that the action to be taken by the BCCA in issuing bonds was an administrative act implementing legislative policy decisions previously made. The appellate court held that the issuance of bonds by the BCCA was merely carrying out a legislative policy already in place and rejected the proposed initiative.

The factual review of events leading to the issuance of bonds and the expenditure of funds which was used by the Supreme Court in Ruano v. Spellman, supra, and by the Court of Appeals in Bidwell v. Bellevue, supra, in determining that only administrative acts remained in those cases, when applied to the facts in the instant case reveal substantially identical fact patterns.

In the instant case, the King County Council, on October 23, 1995, adopted Ordinance 12000, which, pursuant to the Act's grant of authority to the "County legislative authority," effectively implemented the comprehensive statutory scheme established by the Act leading to the acquisition, financing and construction of the Project. Ordinance 12000 created the Public Facilities District, imposed a 0.017% sales and use tax (which is credited against the state-wide sales and use tax), imposed a local car rental tax and a local tax on sales in restaurants, taverns and bars, and stated the County's intent to issue bonds for the project, as required by



the Act. Ordinance 12000 also contained certain administrative measures, such as the creation of an Independent Financial Review Committee to assure that, consistent with the Act, the County would not issue bonds in excess of the amount that could be serviced by the revenues provided for under the Act.

Over the next 15 months many acts were taken by the County and the District in regard to the construction and financing of the Project. Among other things (1) the District, pursuant to the Act, and Ordinance 12000, entered into a Development Agreement with the Seattle Baseball Club ("Club") which set for the general terms and conditions for design of the Project; (2) the District retained and paid architectural consultants to design the project, which design is complete or nearly so; (3) the District has, in consultation with the County and the Club selected the site for the Project; (4) the County has assembled through purchase and condemnation land for the site; (5) petitions to vacate streets have been filed by the District with the City of Seattle to complete the site assembly; (6) Interlocal Agreements have been entered into among the County, the City of Seattle and the District with reference to the Project; (7) the District has spent approximately \$33,000,000 (advanced to it by the County) in carrying out its obligations under the Act and Ordinance 12000; (8) the County Executive has provided the certification requested by the Act; (9) the District has executed a long-term lease with the Club requiring the Club to play baseball in Seattle for 20 years and meeting this other requirement of the Act; (10) a general contractor has been selected; and (11) the District has requested the County to issue the Bonds. All of the legislative decisions regarding whether to construct the Project, where to construct the Project, the design of the Project, how to finance the Project, who will be the tenant for the Project and who will build the Project have been made.

Further, the Bond Ordinance is not subject to referendum because the Act mandates the issuance of the bonds authorized by the Ordinance. Section 201(3) of the Act requires the County to issue bonds in an amount to be determined to be necessary by the PFD for the District to construct, own and equip the baseball stadium. Use of the word "shall" in a legislative enactment is presumptively mandatory. Crown Cascade, Inc. v. O'Neal, 100 Wn.2d 256, 261, 668 P.2d 585 (1983). The terms of the Act provide that once all conditions precedent thereto have been met, the County is under the mandate of the legislature to issue the bonds. Act, § 201(3). The state made clear that "shall" is mandatory by expressly providing only one criterion for relief from the "obligation" to issue bonds; insufficient revenues to support the bonds. Act, § 201(3). Because the County's obligation to issue bonds is mandatory, the people exercising their charter based referendum rights may not contravene state law and subject to referendum an ordinance which is mandated by state law. Miller v. Spokane, 35 Wn.2d 113, 115, 211 P.2d 165 (1949). As such, Ordinance 12593 is not subject to referendum.

## Conclusion

Based upon the standard for determining what is a legislative act and what is an administrative act of government and comparing the facts of this case with the facts and law set forth in Ruano supra and Bidwell supra, it is the opinion of Bond Counsel that the decision of King County to authorize the issuance of \$336,000,000 of bonds to finance the Project pursuant to Ordinance 12593 and any ordinance supplementary thereto was and will be an administrative act not subject to referendum. If this issue is properly briefed and presented to the State Supreme Court in an appeal of the Validation Action, it is the opinion of Bond Counsel that the State Supreme Court will hold that Ordinance 12593 was not subject to referendum and that any claim to the contrary thereto is without merit.

Very truly yours,

PRESTON GATES & ELLIS LLP

By

Jay A. Reich

# 12686

## APPENDIX B

[Letterhead of King County Prosecuting Attorney]

[Attach "No-Merit" Opinion]



## APPENDIX C-1

\_\_\_\_\_, 1997

Washington State Major League Baseball Stadium  
Public Facilities District  
401 Second Avenue South  
Seattle, Washington 98104

Re: Escrow Fund Deposit Agreement

Ladies and Gentlemen:

We have acted as special finance counsel to the Washington State Major League Baseball Stadium Public Facilities District (the "District") in connection with the issuance by King County, Washington (the "County") of its [Limited Tax General Obligation Bonds, 1997 Series A-1, Limited Tax General Obligation Bonds, 1997 Series A-2 (Taxable), Limited Tax General Obligation Bonds, 1997 Series B (Baseball Stadium), Limited Tax General Obligation Bonds, 1997 Series C (Taxable) (Stadium Parking Facilities) and Limited Tax General Obligation Variable Rate Demand Bonds, 1997 Series D (Baseball Stadium)] (collectively, the "Bonds").

Upon their issuance, the proceeds of the Bonds designated as 1997 Series B, 1997 Series C and 1997 Series D (collectively the "Escrowed Bonds") are being transferred by the County to the District pursuant to County Ordinances Nos. 12000, 12593 and \_\_\_\_ and pursuant to a Financing Agreement dated March 18, 1996, between the County and the District, as amended (the "Financing Agreement"). Under the provisions of Chapter 1, 1995 Laws of Washington, 3rd Spec. Sess. (the "Act"), the above-referenced ordinances and the Financing Agreement, the County is obligated to transfer certain amounts to the District, from the sources specified therein so that the District may proceed to acquire, construct, own, remodel, maintain, equip, repair and operate a major league baseball stadium (the "Stadium"). Under the Financing Agreement and [list other relevant PFD-County agreements], in consideration for its receipt of funds and other assistance from the County, the District is obligated to proceed with the construction and operation of the Stadium consistent with the provisions of the above-referenced ordinances, agreements and the Act. Upon receipt of proceeds of the Escrowed Bonds from the County, the District has agreed to deposit those proceeds with The Bank of New York (the "Escrow Agent") pursuant to an Escrow Fund Deposit Agreement dated as of April \_\_\_, 1997 (the "Escrow Agreement"). Under the Escrow Agreement, the Escrow Agent will hold those proceeds of the

Escrowed Bonds until released pursuant to the provisions of County Ordinance \_\_\_\_\_ and the Escrow Agreement.

In our capacity as special counsel to the District, we have examined originals, or copies certified or otherwise identified to our satisfaction as being true copies of originals, of such documents, records and other instruments as we have deemed necessary or appropriate for purposes of this opinion including without limitation (i) Ordinances Nos. 12000, 12593 and \_\_\_\_\_; (ii) the Financing Agreement; (iii) the Act; (iv) the Escrow Agreement; (v) Resolution No. 97-\_\_\_\_\_ of the District; and (vi) [\_\_\_\_\_].

Based on the foregoing, and except only to the extent that enforcement of payment may be limited by bankruptcy, insolvency or other laws affecting creditors' rights and by the application of equitable principles and the exercise of judicial discretion in appropriate cases, we are of the opinion that:

1. The District is a duly organized and legally existing public facilities district formed pursuant to and in compliance with Chapter 36.100 RCW and the Act.
2. The District has duly authorized its Executive Director to execute the Escrow Agreement on behalf of the District.
3. The Escrow Agreement has been duly executed by the Executive Director as the authorized representative of the District, and, assuming the due execution of the Escrow Agreement on behalf of the Escrow Agent, the Escrow Agreement will be a valid, binding and enforceable obligation of the District in accordance with its terms. The authority and obligations of the Escrow Agent to transfer the Escrowed Proceeds in accordance with the Escrow Agreement will not be affected by any final determination in King Co. v. Taxpayers of King Co., Washington State Supreme Court No. 65048-9.

This opinion is limited to the matters set forth in the numbered paragraphs immediately above, is solely for your benefit, and may not be relied upon or used, circulated, quoted or referred to, nor may copies hereof be delivered to any other person without our prior written approval. We bring to your attention the fact that the foregoing opinions are expressions of our professional judgment on the matters expressly addressed and do not constitute guarantees of result.

Respectfully submitted,

FOSTER PEPPER & SHEFELMAN

By

Hugh D. Spitzer

## APPENDIX C-2

[Letterhead of Foster Pepper & Shefelman]

April \_\_, 1997

Smith Barney, Inc., as Representative  
601 Union Street, Suite 3400  
Seattle, Washington, 98101

**Re: Escrow Fund Deposit Agreement**

As special finance counsel to the Washington State Major League Baseball Stadium Public Facilities District (the "District"), we have rendered a legal opinion dated April \_\_, 1997, regarding an Escrow Fund Deposit Agreement between the District and The Bank of New York as Escrow Agent (the "Escrow Agent"), which opinion is addressed to the District and the Escrow Agent. You may rely on that opinion as though it were addressed to you.

Very truly yours,

FOSTER PEPPER & SHEFELMAN

By

Hugh D. Spitzer

## SCHEDULE 1

J.P. Morgan & Co.

E.J. De La Rosa & Co., Inc.

Siebert Brandford Shank Inc,



12686

**Extraordinary Mandatory Redemption**

The Series B Bonds and the Series C Bonds are subject to extraordinary mandatory redemption as and when provided in the Bond Ordinance, at a redemption price of the principal amount of such Bonds to be redeemed, plus accrued interest to the date of redemption, except for the Series B Bonds maturing on December 1, 2015, which shall be redeemed at a redemption price of \$106.61 (for each \$100 of principal amount of such Bond), plus accrued interest to the date of redemption.



**SCHEDULE 2****MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES,  
AND MANDATORY AND OPTIONAL REDEMPTION PROVISIONS****Series B Bonds Maturity Schedule**

<u>Maturity (December 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2011	\$11,315,000	5.750%
2012	28,210,000	5.800
2013	31,515,000	5.850
2014	35,100,000	5.900
2015	39,000,000	6.625
2016	5,860,000	6.000

**Series C Bonds Maturity Schedule**

<u>Maturity (December 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2000	\$ 445,000	7.060%
2001	400,000	7.180
2002	495,000	7.270
2003	595,000	7.410
2004	710,000	7.510
2005	830,000	7.550
2006	965,000	7.550
2007	1,115,000	7.590
2008	1,275,000	7.640
2009	1,450,000	7.690
2010	1,645,000	7.740
2011	1,855,000	7.790
2016*	13,220,000	8.120

\*Series C Term Bonds subject to Mandatory Sinking Fund Redemption as provided below.

### Optional Redemption

The Series B Bonds and the Series C Bonds maturing on and after December 1, 2008 will be subject to redemption prior to maturity, at the option of the County, from any available funds, on any date on or after December 1, 2007, in whole or in part, at the following prices, which are expressed as a percentage of the principal amount of the Bonds:

<u>Redemption Periods</u> (inclusive)	<u>Redemption Price</u>
December 1, 2007 to November 30, 2008	102%
December 1, 2008 to November 30, 2009	101%
December 1, 2009 and thereafter	100%

If fewer than all of the Bonds subject to optional redemption are called for redemption, the County will choose the maturities to be redeemed. If less than the whole of a maturity is called for redemption, the Bonds to be redeemed will be chosen by lot by the Bond Registrar or, if the Bonds are registered in the name of Cede & Co. or its registered assign, the Bonds of such maturity to be redeemed will be chosen by lot by DTC.

The Series C Bonds may not be called for optional redemption prior to maturity without the prior consent of the PFD.

### Mandatory Sinking Fund Redemption

The Series C Bonds maturing on December 1, 2016 are subject to mandatory sinking fund redemption prior to their stated maturity in part by lot in such manner as may be designated by the Bond Registrar at a redemption price equal to the principal amount of the Bonds to be redeemed, without premium, plus accrued interest thereon to the date of redemption, on December 1 in the following years and amounts:

<u>Year</u>	<u>Principal Amount</u>
2012	\$2,080,000
2013	2,340,000
2014	2,620,000
2015	2,925,000
2016*	3,255,000

\*Scheduled Maturity

1 2686

April \_\_\_, 1997

King County, Washington  
Seattle, Washington

Smith Barney Inc.  
Seattle, Washington

Re: King County Washington Limited Tax General Obligation Bonds, 1997, Series B,  
Series C and Series D

Ladies and Gentlemen:

Since 1979, I have been the elected Prosecuting Attorney for King County with statutory responsibility for legal advice and representation of King County. Preston Gates and Ellis has acted as King County's bond counsel in the matter of the issuance by King County, Washington (the "County") of its Limited Tax General Obligation Bonds, 1997 Series B, Series C and Series D in the principal sum of \$326,000,000 (the "Bonds"), issued for the purpose of providing funding to the Washington State Major League Baseball Stadium Public Facilities District (the "District") to construct a professional baseball stadium (the "Project") pursuant to Chapter 1, Laws of 1995, Third Special Session (the "Act"), Ordinance No. 12000 of the County passed on October 23, 1995, Ordinance No. 12593 of the County passed on January 6, 1997 and Ordinance No. \_\_\_\_\_ of the County passed on April \_\_\_, 1997 (collectively, Ordinance 12593 and Ordinance \_\_\_\_\_ are called the "Bond Ordinance"). Capitalized terms used herein and not otherwise defined shall have the meanings given in the Bond Ordinance.

As the statutory attorney for King County, I am familiar with the initiative and litigation regarding the Project described in the Official Statement dated March 24, 1997.

Our office initiated a special declaratory judgment action with respect to the Bonds and certain related matters which is currently pending (the "Validation Action"). On February 26, 1997, the King County Superior Court entered an Order (the "Superior Court Order") declaring among other things, that Ordinance 12593 was validly enacted, that the County has the authority to issue, sell and deliver the Bonds and that the Bonds, when issued, will be valid and enforceable obligations of the County. A number of arguments were made by the taxpayers' representative appointed to represent the taxpayers of King County in the validation action (the "Taxpayers' Representative") challenging the validity of the Bonds and the Bond Ordinance to the Superior Court. All such arguments were rejected by the Superior Court.

EXHIBIT B

An appeal has been filed from the Superior Court Order directly with the Washington State Supreme Court (the "State Supreme Court") by the Taxpayers' Representative. It is anticipated that all of the arguments made by the Taxpayers' Representative will be raised again in the appeal to the State Supreme Court.

In the opinion of King County's Bond Counsel the only issue which could be raised by the Taxpayers' Representative to the State Supreme Court which could affect the validity of the Bonds upon their issuance and prior to any Extraordinary Mandatory Redemption is whether the Bond Ordinance is subject to referendum. Our clients in consultation with Bond Counsel have asked our office to render an opinion that the claim that the Bond Ordinance is subject to referendum is without merit.

### **Legal Analysis**

Under the King County Charter ("KCC"), Section 230.70, unless otherwise specified in the ordinance, the effective date of an ordinance is 10 days after its enactment. If an ordinance may be subjected to a referendum, and if a proposed referendum petition is submitted to the Clerk of the County Council prior to the 10th day after enactment of an ordinance, the effective date of the ordinance is 45 days after its enactment, unless a later date is specified in the ordinance. If an ordinance is subjected to referendum, it cannot become effective until it is approved by the voters.

Under the KCC certain ordinances are exempted from the referendum process. Bond Ordinances are not, by terms of the Charter, specifically exempted from the referendum process.

Ordinance 12593, adopted by the King County Council on January 6, 1997 was the subject of a referendum petition filed on January 7, 1997. On January 7, 1997, a referendum petition was filed with the Clerk of the King County Council ("the Clerk"). In a letter dated January 10, 1997, our office advised the Clerk that Ordinance 12593 was not subject to referendum.

While the KCC, like the State Constitution, sets forth broad referendum and initiative rights, it is clear from decided cases of the Washington Supreme Court that even under such broad charter and constitutional provisions the initiative and referendum are limited to subject matter which is legislative in nature, and that the initiative and the referendum do not apply to acts of government which are administrative in nature. Ruano v. Spellman, 81 Wn.2d 820, 505 P.2d 447 (1973); Ford v. Logan, 79 Wn.2d 147, 154, 483 P.2d 1247 (1971); Bidwell v. Bellevue, 65 Wash. App. 43, 827 P.2d 339 (1992); Miller v. Spokane, 35 Wn.2d 113, 211 P.2d

165 (1949). See also Trautman, Initiative and Referendum in Washington: A Survey, 49 Washington Law Review 55 (1973).

Several criteria have been suggested for determining when an act of government is legislative or administrative. In Ruano v. Spellman, *supra*, an opponent of the Kingdome project in Seattle filed an initiative which, if enacted, would have prohibited further spending of funds on the Kingdome and in effect terminated the Kingdome project. As Chief Civil Deputy for King County from 1971 to 1978, I filed an action on behalf of King County in Superior Court to block the initiative and argued that all legislative decisions regarding the construction and financing of the Kingdome had been made and that only administrative decisions remained to implement the legislative decisions. The Superior Court agreed with King County and held the initiative invalid.

On appeal, the Supreme Court, in analyzing the question of whether any legislative decisions remained regarding the Kingdome, established the standard in Washington for distinguishing between a legislative and administrative act.

We believe a preferable standard, at least for this case, to be whether the proposition is one to make new law or declare a new policy, or merely to carry out and execute policy already in existence. People v. Centralia, 1 Illinois App.2d 228, 117 NE 410 (1953); Heider v. Common Council, 37 Wis.2d 66, 155 NW.2d 17 (1967).

81 Wn.2d at 823.

The Supreme Court reviewed the actions taken by the County Council in determining to construct the Kingdome. The Superior Court had found that: (a) an option to purchase the site for the Kingdome was exercised at a cost in excess of \$4,000,000; (b) a \$2,000,000 contract for architectural and engineering services was executed; (c) a \$25,000 contract to provide soil testing was signed; (d) a contract for independent cost estimates and construction scheduling was entered into by the County; and (e) certain bids had been advertised and issued to interested bidders.

The Supreme Court went on to say:

Quite apart from the tests suggested by Paget, it must be concluded that only administrative decisions remained. By its vote the electorate had declared its legislative policy to build a multi-purpose stadium, to finance it by bonds, and to repay those bonds from specified sources. The legislative decision on site selection had been made. No new law would be involved in expending funds for

those declared purposes. The County and its agents in making those expenditures simply were executing an already adopted legislative determination.

81 Wn.2d at 824.

The Supreme Court held therefore that only administrative decisions remained with reference to the Kingdome project and that the proposed initiative should be rejected.

To the same effect is Bidwell v. Bellevue, 65 Wn. App. 43, 827 P. 2d 339 (1992). In that case the question before the court was whether an initiative petition requiring a vote of the people prior to the issuance of bonds to finance a Convention Center should be scheduled for a vote. In the Bidwell case, the appellate court also reviewed the history of events leading to the decision to issue bonds. Over the course of a year the City of Bellevue had (1) appointed a citizens committee to study the feasibility of a convention center; (2) adopted a resolution establishing the scope of the project and announced its intent to proceed with design, financing and construction of the convention center; (3) authorized the City Manager to begin acquisition of property for the convention center and select an architect; (4) held a public meeting on whether to proceed with the convention center; (5) created the Bellevue Convention Center Authority ("BCCA") to carry out the construction and operation of the Center; (6) authorized the execution of leases and other agreements, and (7) authorized the BCCA to issue bonds.

After the above-described review, the appellate court concluded, citing Ruano, supra, that the action to be taken by the BCCA in issuing bonds was an administrative act implementing legislative policy decisions previously made. The appellate court held that the issuance of bonds by the BCCA was merely carrying out a legislative policy already in place and rejected the proposed initiative.

The factual review of events leading to the issuance of bonds and the expenditure of funds which was used by the Supreme Court in Ruano v. Spellman, supra, and by the Court of Appeals in Bidwell v. Bellevue, supra, in determining that only administrative acts remained in those cases, when applied to the facts in the instant case reveal substantially identical fact patterns.

In the instant case, the King County Council, on October 23, 1995, adopted Ordinance 12000, which, pursuant to the Act's grant of authority to the "County legislative authority", effectively implemented the comprehensive statutory scheme established by the Act leading to the acquisition, financing and construction of the Project. Ordinance 12000 created the Public Facilities District, imposed a 0.017% sales and use tax (which is credited against the state-wide sales and use tax), imposed a local car rental tax and a local tax on sales in restaurants,



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taverns and bars, and stated the County's intent to issue bonds for the project, as required by the Act. Ordinance 12000 also contained certain administrative measures, such as the creation of an Independent Financial Review Committee to assure that, consistent with the Act, the County would not issue bonds in excess of the amount that could be serviced by the revenues provided for under the Act.

Over the next 15 months many acts were taken by the County and the District in regard to the construction and financing of the Project. Among other things (1) the District, pursuant to the Act, and Ordinance 12000, entered into a Development Agreement with the Seattle Baseball Club ("Club") which set forth the general terms and conditions for design of the Project; (2) the District retained and paid architectural consultants to design the project, which design is complete or nearly so; (3) the District has, in consultation with the County and the Club selected the site for the Project; (4) the County has assembled through purchase and condemnation land for the site; (5) petitions to vacate streets have been filed by the District with the City of Seattle to complete the site assembly; (6) Interlocal Agreements have been entered into among the County, the City of Seattle and the District with reference to the Project; (7) the District has spent approximately \$33,000,000 (advanced to it by the County) in carrying out its obligations under the Act and Ordinance 12000; (8) the County Executive has provided the certification required by the Act; (9) the District has executed a long-term lease with the Club requiring the Club to play baseball in Seattle for 20 years and meeting this other requirement of the Act; (10) a general contractor has been selected; and (11) the District has requested the County to issue the Bonds. All of the legislative decisions regarding whether to construct the Project, where to construct the Project, the design of the Project, how to finance the Project, who will be the tenant for the Project and who will build the Project have been made.

Further, as we advised previously, the Bond Ordinance is not subject to referendum because the Act mandates the issuance of the bonds authorized by the Ordinance. Section 201(3) of the Act requires the County to issue bonds in an amount to be determined to be necessary by the PFD for the District to construct, own and equip the baseball stadium. Use of the word "shall" in a legislative enactment is presumptively mandatory. Crown Cascade, Inc. v. O'Neal, 100 Wn.2d 256, 261, 668 P.2d 585 (1983). The terms of the Act provide that once all conditions precedent thereto have been met, the County is under the mandate of the legislature to issue the bonds. Act, § 201(3). The state made clear that "shall" is mandatory by expressly providing only one criterion for relief from the "obligation" to issue bonds; insufficient revenues to support the bonds. Act, § 201(3). Because the County's obligation to issue bonds is mandatory, the people exercising their charter based referendum rights may not contravene state law and subject to referendum an ordinance which is mandated by state law. Miller v. Spokane, 35 Wn.2d 113, 115, 211 P.2d 165 (1949). As such, Ordinance 12593 is not subject to referendum.

King County, Washington  
Smith Barney  
April \_\_, 1997  
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### **Conclusion**

Based upon the standard for determining what is a legislative act and what is an administrative act of government and comparing the facts of this case with the facts and law set forth in Ruano, supra and Bidwell, supra, it is the opinion of our office that the decision of King County to authorize the issuance of \$336,000,000 of bonds to finance the Project pursuant to Ordinance 12593 and any ordinance supplementary thereto was and will be an administrative act not subject to referendum. If this issue is properly briefed and presented to the State Supreme Court in an appeal of the Validation Action, it is my opinion, as King County Prosecuting Attorney, that the State Supreme Court will hold that Ordinance 12593 was not subject to referendum and that any claim to the contrary thereto is without merit.

Sincerely,

NORM MALENG  
Prosecuting Attorney

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**EXHIBIT F<sub>2</sub>**  
**\$150,000,000**  
**KING COUNTY, WASHINGTON,**  
**LIMITED TAX GENERAL OBLIGATION VARIABLE RATE DEMAND BONDS**  
**1997 Series D (Baseball Stadium)**

**BOND PURCHASE CONTRACT**

April 2, 1997

KING COUNTY COUNCIL  
King County Courthouse, 12th Floor  
Seattle, Washington 98104

Dear Councilmembers:

Smith Barney Inc. (the "Purchaser") offers to enter into this Bond Purchase Contract with King County, Washington (the "County"). The offer made hereby is subject to acceptance by the County by execution and delivery of this Bond Purchase Contract (the "Bond Purchase Contract") to the Purchaser at or prior to 6:00 p.m., Seattle, Washington time, on the date first above written, and if not so accepted will be subject to withdrawal by the Purchaser upon notice delivered to the County at any time prior to the acceptance hereof by the County. Upon acceptance of this offer by the County in accordance with the terms hereof, this Bond Purchase Contract will be binding upon the County and upon the Purchaser. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Official Statement or the Bond Ordinance (each as hereinafter defined).

1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties, covenants and agreements hereinafter set forth, the Purchaser hereby agrees to purchase from the County for offering to the public, and the County hereby agrees to sell to the Purchaser for such purpose, all (but not less than all) of the \$150,000,000 aggregate principal amount of the County's Limited Tax General Obligation Bonds, 1997 Series D (Baseball Stadium) (the "Bonds"). The Bonds shall be dated the date of their delivery to the Purchaser, shall bear interest subject to a Variable Rate and shall mature or be subject to mandatory sinking fund redemption on the dates and in the amounts and shall be subject to optional and extraordinary mandatory redemption prior to

maturity thereof, all as set forth in the attached Schedule 2, which is incorporated herein by this reference. The Bonds shall be subject to optional redemption prior to maturity as provided in the Bond Ordinance (hereinafter defined). The Bonds shall bear interest at such initial interest rate as shall be determined by the Purchaser pursuant to the Bond Ordinance. The purchase price for the Bonds shall be \$150,000,000. The Purchaser will be paid an Underwriting Fee (the "Underwriting Fee") of \$135,000, which amount shall be paid at Closing (hereinafter defined) from proceeds of the County's Series A Bonds. In addition, the Purchaser will be paid a fee of \$643,626.25 upon conversion of the Bonds to Fixed Rate Bonds, and the remarketing thereof, to be paid upon conversion.

2. The Bonds. The Bonds shall be issued in accordance with chapters 36.67 and 39.46 of the Revised Code of Washington and the County Charter and Chapter 1, Laws of 1995, 3<sup>rd</sup> Sp. Sess. (together, the "Act"). The Bonds are authorized and being issued under the provisions of Ordinances Nos. 12000, 12593 and \_\_\_\_\_ of the King County Council (the "County Council") adopted on October 23, 1995, January 6, 1997 and April 2, 1997, respectively, (together, the "Bond Ordinance"). Principal of and premium, if any, on the Bonds are payable at either of the principal offices of the fiscal agencies of the State of Washington (the "State") in Seattle, Washington or New York, New York as bond registrar and paying agent, currently Wells Fargo Bank, National Association and The Bank of New York (or such other fiscal agency or agencies as the County Finance Director may from time to time designate). Payments of principal and interest on the Bonds will be secured by an irrevocable letter of credit (the "Letter of Credit") issued by the Bank of America National Trust and Savings Association doing business as Seafirst Bank (the "Bank") pursuant to the terms of a Reimbursement Agreement, dated the date of delivery of the Bonds, by and between the Bank and the County (the "Reimbursement Agreement"). A Remarketing Agreement, to be dated the date of delivery of the Bonds, will be entered into by and between the County and Smith Barney Inc., as remarketing agent (the "Remarketing Agreement"). The proceeds of the Bonds will be deposited by the County into its Equipment and Building Acquisition Fund and immediately transferred to the Washington State Major League Baseball Stadium Public Facilities District (the "PFD") for deposit with The Bank of New York (the "Escrow Agent") pursuant to the terms of an Escrow Fund Deposit Agreement by and between the PFD and the Escrow Agent (the "Escrow Agreement"), the form of which has been provided to the Purchaser. The Bonds are being issued for such purposes and shall otherwise be as described in the Bond Ordinance and the Official Statement.

Pursuant to the Bond Ordinance, the County may elect that the Bonds shall be converted to Fixed Rates until their maturity and the County Finance Director has been authorized to make such election on behalf of the County at any time after Closing which election shall cause the Bonds to be marketed at Fixed

Rates such that the average ratio of "Tax Exempt Available Revenues, Excluding Lottery Revenues" (as set forth in Schedule 3 attached hereto and incorporated herein by this reference) to annual debt service on the Series A-1 Bonds, the Series B Bonds and the Bonds (less an amount equal to the projected lottery revenues for such year as set forth in Schedule 3 attached hereto and incorporated herein by this reference) shall equal at least 1.2:1.0 for the years 1999 through 2016 (the "Coverage Requirements"). The County hereby agrees that in no case shall such election be made such that the remarketing of the Bonds upon conversion to Fixed Rates will occur after May 7, 1997, or that the effective date of such conversion will occur after May 15, 1997. In the Remarketing Agreement, the Purchaser has agreed with the other underwriters set forth in Schedule 1 hereto, which is incorporated herein by this reference, jointly and severally, to remarket the Bonds upon such conversion within the Coverage Requirements.

To support its obligations to remarket the Bonds and to the extent the Bonds have not been converted to Fixed Rates by May 7, 1997, the Purchaser hereby agrees on May 7, 1997, for settlement no later than May 15, 1997, to remarket the Bonds at Fixed Rates so that the debt service on the Bonds shall be in accordance with the Coverage Requirements. In consideration thereof, the County shall pay to the Purchaser at Closing a fee of \$2,412,000 (the "Guaranty Payment"), which amount shall be paid from the proceeds of the County's Series A Bonds. A portion of the Guaranty Payment may be refundable if the Bonds are remarketed at a Fixed Rate on any date prior to May 7, 1997. In such event, the Purchaser hereby agrees to use its best efforts to determine the residual value and to refund such amount to the County upon delivery of the Fixed Rate Bonds.

3. Official Statement. The County hereby authorizes and approves the preparation and distribution of an Official Statement of the County with respect to the Bonds (together with the Appendices thereto, any documents incorporated therein by reference, and any supplements or amendments thereto, the "Official Statement"), in connection with the public offering and sale of the Bonds by the Purchaser. The County shall provide the Purchaser, no later than April \_\_, 1997, with a reasonable number of copies of the Official Statement as requested by the Purchaser, for distribution.

4. Representations, Warranties, Covenants and Agreements of the County. The County represents and warrants to and covenants and agrees with the Purchaser that, as of the date hereof:

(a) The County has the full legal right, power and authority to enter into this Bond Purchase Contract, the Reimbursement Agreement and the Remarketing Agreement, to adopt the Bond Ordinance, to observe, perform and consummate the covenants, agreements and transactions contemplated by this Bond Purchase Contract, the Reimbursement

Agreement, the Remarketing Agreement, the Bond Ordinance and the Official Statement and to issue, sell and deliver the Bonds to the Purchaser as provided herein; by all necessary official action of the County prior to or concurrently with the acceptance hereof, the County has duly adopted the Bond Ordinance in accordance with the Act and authorized and approved the Preliminary Official Statement and the Official Statement and the distribution thereof by the Purchaser; the Bond Ordinance is in full force and effect and has not been amended, modified or rescinded; the County has duly authorized and approved the execution and delivery of, and the performance by the County of its obligations contained in, the Bonds, the Official Statement, the Reimbursement Agreement, the Remarketing Agreement and this Bond Purchase Contract; the County has duly authorized and approved the performance by the County of its obligations contained in the Bond Ordinance and the consummation by it of all other transactions contemplated by the Reimbursement Agreement, the Remarketing Agreement and this Bond Purchase Contract to have been performed or consummated at or prior to the date of Closing; and the County is in compliance in all respects with the terms of the Act and with the obligations in connection with the issuance of the Bonds on its part contained in the Bond Ordinance, the Bonds, the Reimbursement Agreement, the Remarketing Agreement and this Bond Purchase Contract.

(b) As of the date thereof and at all times subsequent thereto up to and including the date of the Closing, the Official Statement (except for information regarding DTC and its book-entry only system and information regarding the Bank), as supplemented and amended in accordance herewith, will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) If the Official Statement is supplemented or amended pursuant to Paragraph 4(d) hereof, at the time of each supplement or amendment thereto and at all times subsequent thereto up to and including the date of the Closing, the Official Statement (except for information regarding DTC and its book-entry only system and information regarding the Bank) as so supplemented or amended will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) If between the date of the Preliminary Official Statement distributed in connection with the offering of the County's Series B Bonds and the Series C Bonds and the date of the Closing (i) any event shall occur

or any fact or condition shall become known to the County which might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the County shall notify the Purchaser thereof, and (ii) in the reasonable opinion of the Purchaser such event, fact or condition requires the preparation and publication of a supplement or amendment to the Official Statement, the County will at its expense supplement or amend the Official Statement in a form and in a manner approved by the Purchaser, which approval shall not be unreasonably withheld.

(e) The County is duly organized and validly existing as a political subdivision of the State and, under the Constitution and laws of the State, including the Act, has full legal right, power, and authority to issue the Bonds for the purposes described in the Bond Ordinance and the Official Statement.

(f) Between the date hereof and the Closing, except as contemplated by the Official Statement, the County will not without the prior written consent of the Purchaser offer or issue any bonds, notes or other obligations for borrowed money, or incur any material liabilities, direct or contingent, or enter into any material transaction other than in the ordinary course of business, and there shall have not been any material adverse change in the condition, financial or physical, of the County or its properties.

(g) The County is not in violation of, or in breach of or in default under, any applicable constitutional provision, law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, or other agreement or instrument to which the County is a party or to which the County or any of its properties is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument; and the execution and delivery of this Bond Purchase Contract, the Reimbursement Agreement, the Remarketing Agreement and the Bonds, the adoption of the Bond Ordinance, and compliance with the provisions of this Bond Purchase Contract, the Reimbursement Agreement, the Remarketing Agreement, the Bond Ordinance and the Bonds, will not conflict with or constitute a breach of or default under any constitutional provision, law, administrative regulation, judgment, court decree, loan agreement, indenture, bond, note, resolution, agreement, or other instrument to which the County is subject, or by which it or any of its properties is bound, nor will any such execution, delivery,

adoption or compliance result in the creation or imposition of any material lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its properties or under the terms of any such law, regulation or instrument, except as provided by the Bonds and the Bond Ordinance.

(h) Except as expressly set forth in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or threatened (i) in any way questioning the corporate existence of the County or the titles of the officers of the County to their respective offices; (ii) in any way contesting, affecting or seeking to prohibit, restrain or enjoin the issuance or delivery of any of the Bonds, or the levy or collection of the taxes and other revenues pledged to pay the principal of and interest on the Bonds, including, without limitation, the following taxes and revenues: Food and Beverage Taxes; Car Rental Taxes; County Sales Taxes; State Lottery Receipts; Stadium Admissions Taxes; payments by or on behalf of the Club made pursuant to (A) the Ballpark Operations and Lease Agreement dated as of December 22, 1996, as amended, between the Club and the PFD and (B) Amendment No. 5; and State License Plate Receipts, or the pledge of such taxes and revenues, or the application of the proceeds of the Bonds; (iii) in any way contesting or affecting the validity of the Bonds, the Bond Ordinance, the Reimbursement Agreement, the Remarketing Agreement or this Bond Purchase Contract or the tax-exempt status of the interest on the Bonds, or contesting the powers of the County or any authority for the issuance of the Bonds, the adoption of the Bond Ordinance or the execution and delivery by the County of this Bond Purchase Contract; (iv) which may result in any material adverse change relating to the business, operations or financial condition of the County; or (v) contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement or asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(i) The County will furnish such information, execute such instruments and take such other action not inconsistent with law or established policy of the County in cooperation with the Purchaser as may be requested (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States of America as may be designated by the Purchaser, and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue



such qualifications in effect so long as required for the distribution of the Bonds; provided, however, that the County shall not be required to execute a general or special consent to service of process or qualify to do business in connection with any such qualification or determination in any jurisdiction.

(j) The Bonds and the Bond Ordinance conform in all material respects to the descriptions thereof contained in the Official Statement.

(k) The Bonds, when issued and delivered in accordance with the Bond Ordinance and sold to the Purchaser as provided herein, will be legal, valid and binding obligations of the County, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights generally, and the owners of the Bonds will be entitled to the benefits of the Bond Ordinance; upon such issuance and delivery the Bond Ordinance will provide, for the benefit of the owners from time to time of the Bonds, a legally valid and binding pledge of and lien on the funds and accounts pledged to such Bonds under the Bond Ordinance and the taxes and other revenues pledged to such funds and accounts under the Bond Ordinance. This Bond Purchase Contract, the Reimbursement Agreement, the Remarketing Agreement and the Bond Ordinance are legal, valid and binding obligations of the County enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditor's rights generally.

(l) All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would adversely affect the due performance by the County of, its respective obligations under this Bond Purchase Contract, the Reimbursement Agreement, the Remarketing Agreement, the Bonds and the Bond Ordinance, have been duly obtained or where required for future performance are expected to be obtained, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Bonds.

(m) The audited financial statements of the County for the fiscal year ended December 31, 1995, set forth as Appendix B to the Official Statement, fairly present the financial position of the County as of the dates indicated and the sources and uses of its cash and the changes in its fund balances for the periods therein specified to the extent included therein, and are in conformity with generally accepted accounting principles applied on a

consistent basis, and there has been no material adverse change in the financial condition of the County since the dates thereof.

(n) Any certificate signed by any official of the County and delivered to the Purchaser shall be deemed to be a representation and warranty by the County to the Purchaser as to the statements made therein.

(o) The County has not defaulted in the payment of principal of or interest on any of its bonds, notes or other evidences of indebtedness for borrowed money.

(p) The County has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the County is a bond issuer whose arbitrage certificates may not be relied upon.

(q) The County will undertake, pursuant to the Bond Ordinance, to provide certain annual financial information and notices of the occurrence of certain events, if material, pursuant to section (b)(5) of Rule 15c2-12. An accurate description of this undertaking is set forth in the Preliminary Official Statement.

5. Offering. It shall be a condition to the County's obligations to sell and to deliver the Bonds to the Purchaser and to the Purchaser's obligations to purchase, to accept delivery of and to pay for the Bonds that the entire \$150,000,000 principal amount of the Bonds shall be issued, sold and delivered by the County and purchased, accepted and paid for by the Purchaser at the Closing. The Purchaser agrees to make a bona fide public offering of all the Bonds.

6. Closing. At 8:30 a.m., Seattle time, on April 17, 1997 or at such other time and/or date as shall have been mutually agreed upon by the County and the Purchaser, the County will deliver or cause to be delivered (through DTC) to the Purchaser the Bonds duly executed by the County, together with the other documents hereinafter mentioned; and the Purchaser will accept such delivery (through DTC) and pay the purchase price of the Bonds as set forth in Paragraph 1 hereof by wire transfer or by delivering to the County a certified check or checks, payable to the order of the County, in an aggregate amount equal to such purchase price.

Payment for the delivery of the Bonds as aforesaid shall be made at the offices of Preston Gates & Ellis LLP, in Seattle, Washington, or at such other place as shall have been mutually agreed upon by the County and the Purchaser. Such payment and delivery is herein called the "Closing." The Purchaser shall order CUSIP identification numbers and the County shall cause such CUSIP identification numbers to be printed on the Bonds, but neither the failure to print such number on

any Bond nor any error with respect thereto shall constitute cause for a failure or refusal by the Purchaser to accept delivery of and pay for the Bonds in accordance with the terms of this Bond Purchase Contract. The Bonds will be delivered in New York, New York, will be prepared and delivered in registered form, bearing CUSIP numbers, and will be registered in the name of Cede & Co., as nominee of DTC. The Bonds will be made available to the Purchaser for checking not less than two (2) business days prior to the Closing.

7. Closing Conditions. The obligations of the Purchaser hereunder shall be subject to the performance by the County of its obligations hereunder at or prior to the Closing and are also subject to the following conditions:

(a) The representations and warranties of the County contained herein shall be true, complete and correct in all material respects at the date hereof and on and as of the date of the Closing as if made on the date of Closing.

(b) At the time of the Closing (i) the Bond Ordinance shall be in full force and effect, and shall not have been amended, modified or supplemented since the date hereof, except as shall have been agreed to in writing by the Purchaser; and (ii) the County shall perform or have performed its obligations required under or specified in this Bond Purchase Contract and the Bond Ordinance to be performed at or prior to the Closing.

(c) At the time of the Closing, there shall have been no material adverse change in the financial or physical condition of the County or its properties.

(d) At the time of the Closing, all official action of the County relating to this Bond Purchase Contract, the Reimbursement Agreement, the Remarketing Agreement, the Official Statement, the Bonds and the Bond Ordinance shall be in full force and effect in accordance with their respective terms and such documents shall not have been amended, modified or supplemented in any material respect from the date hereof except as shall have been agreed to in writing by the Purchaser.

(e) Prior to the time of the Closing, the Series A Bonds shall have been issued and sold, and, at the Closing of the Bonds, the proceeds of the Series A Bonds shall be legally available, and sufficient, to pay the full Underwriting Fee and the Guaranty Payment.

(f) At or prior to the Closing, the Purchaser shall receive the following documents, in each case satisfactory in form and substance to the Purchaser and to its counsel, Graham & James LLP/Riddell Williams P.S.:

(1) The Official Statement and each supplement or amendment, if any, thereto, executed on behalf of the County by the Finance Director of the County;

(2) A certificate, dated the date of the Closing, of the County executed by the County Executive or other authorized officer of the County, to the effect that, other than as set forth in the Official Statement, no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court, government agency, public board or body is pending or threatened (i) in any way questioning the corporate existence of the County or titles of the officers of the County to their respective offices; (ii) in any way contesting, affecting or seeking to prohibit, restrain or enjoin the issuance or delivery of any of the Bonds, or the levy or collection of the taxes and other revenues pledged or to be pledged to pay the principal of and interest on the Bonds, including, without limitation, the following taxes and revenues: Food and Beverage Taxes; Car Rental Taxes; County Sales Taxes; State Lottery Receipts; Stadium Admissions Taxes; payments by or on behalf of the Club made pursuant to (A) the Ballpark Operations and Lease Agreement dated as of December 22, 1996, as amended, between the Club and the PFD and (B) Amendment No. 5; and State License Plate Receipts, or the pledge of such taxes and other revenues, or the application of the proceeds of sale of the Bonds; (iii) in any way contesting or affecting the validity of the Reimbursement Agreement, the Remarketing Agreement, the Bonds, the Bond Ordinance, the Act or this Bond Purchase Contract, or the tax-exempt status of the interest on the Bonds or contesting the powers of the County or any authority for the issuance of the Bonds, or the adoption of the Bond Ordinance, or the execution and delivery by the County of the Reimbursement Agreement, the Remarketing Agreement or this Bond Purchase Contract; (iv) which may result in any material adverse change relating to the operations or financial condition of the County; or (v) contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(3) Copies of the Bond Ordinance certified by the Clerk of the County Council as having been duly executed or adopted by the County and as being in full force and effect, with such changes or amendments as shall have been agreed to in writing by the Purchaser;

(4) The opinions of Preston Gates & Ellis LLP, Bond Counsel to the County, addressed to the Purchaser and dated the date of the Closing, in substantially the forms attached as Appendix A-1 and A-2 hereto, which are incorporated herein by this reference;

(5) An opinion of Graham & James LLP/Riddell Williams P.S., counsel to the Purchaser, dated the date of the Closing and addressed to the Purchaser, to the effect that (i) the Bonds are not required to be registered under the Securities Act of 1933, as amended, (ii) the Bond Ordinance need not be qualified with respect to the Bonds under the Trust Indenture Act of 1939, as amended and (iii) the undertaking of the County pursuant to the Bond Ordinance to provide continuing disclosure with respect to the Bonds satisfies the requirements of section (b)(5) of Rule 15c2-12;

(6) The unqualified approving opinion of Preston Gates & Ellis LLP, Bond Counsel to the County, pertaining to the Bonds, dated the date of the Closing, in substantially the form attached to the Official Statement as Appendix A;

(7) The opinion of the Prosecuting Attorney of the County, addressed to the Purchaser and dated the date of the Closing, in substantially the form attached as Appendix B hereto, which is incorporated herein by this reference.

(8) A certificate, dated the date of the Closing, of the County executed by its County Executive or other authorized officer to the effect that on the date of the Official Statement and on the date of the certificate (i) the representations and warranties of the County contained in this Bond Purchase Contract were and are true and correct in all material respects, and the County has complied with all agreements and covenants and satisfied all conditions contemplated by this Bond Purchase Contract, the Reimbursement Agreement, the Remarketing Agreement and the Bond Ordinance on its part to be performed or satisfied at or prior to the date of the Closing; (ii) insofar as the County and its affairs, including its financial affairs, are concerned, the Official Statement did not and does not contain any untrue statement of a material fact or omit any statement

or information which is required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and (iii) insofar as the descriptions, statements and data, including financial data, of or pertaining to other bodies and their activities contained in the Official Statement are concerned, such descriptions, statements and data have been obtained from sources which the County believes to be reliable and the County has no reason to believe that they are untrue in any material respect or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(9) A duly executed non-arbitrage certificate of the County in form satisfactory to Bond Counsel to the County;

(10) A duly executed copy of the Escrow Agreement, together with (i) an opinion of Foster Pepper & Shefelman, special finance counsel to the PFD, dated the date of Closing and addressed to the PFD and the Escrow Agent, in substantially the form attached as Appendix C-1 hereto, together with a reliance letter in connection therewith, addressed to the Purchaser, dated the date of Closing, in substantially the form attached as Appendix C-2 hereto, each of which is incorporated herein by this reference; and (ii) a certificate of the Escrow Agent to the effect (A) that the person executing the Escrow Agreement is duly authorized to do so on behalf of the Escrow Agent, and (B) the Escrow Agreement is legal, valid and binding and is enforceable against the Escrow Agent in accordance with its terms;

(11) A duly executed copy of the Reimbursement Agreement and the Letter of Credit, together with an opinion of counsel to the Bank, dated the date of Closing and addressed to the Purchaser and the County, in substantially the form attached as Appendix D hereto, which is incorporated herein by this reference;

(12) A certificate of the Bank, dated the date of Closing, to the effect that the statements and information in the Official Statement regarding the Bank are accurate and complete in all material respects, with respect to the absence of litigation and addressing such other matters as the Purchaser may reasonably request;

(13) A duly executed copy of the Remarketing Agreement;

(14) An opinion of the Prosecuting Attorney, dated the date of the Closing and addressed to the Purchaser, as to the due authorization, execution and delivery of the Financing Agreement and Amendment No. 5 thereto (together the "Amended Financing Agreement") by the County, and the enforceability thereof against the County;

(15) An opinion of Preston Gates & Ellis LLP, counsel to the PFD, dated the date of the Closing and addressed to the Purchaser, as to the due authorization, execution and delivery by the PFD of the Amended Financing Agreement and the Ballpark Operations and Lease Agreement, dated as of December 23, 1996, as amended, between the Club and the PFD (the "Lease"), and the enforceability of each such document against the PFD;

(16) An opinion of Perkins Coie, counsel to the Club, dated the date of the Closing and addressed to the Purchaser, as to the due authorization, execution and delivery of the Lease by the Club, and the enforceability thereof against the Club;

(17) A DTC Letter of Representation, executed by the County and accepted by DTC;

(18) Evidence satisfactory to the Purchaser that Moody's Investors Service and Standard & Poor's Ratings Group have assigned long-term ratings of "Aa1" and "AA +", respectively, and short-term ratings of "VMIG 1" and "A-1 +", respectively, to the Bonds;

(19) Four transcripts of all proceedings relating to the authorization and issuance of the Bonds certified by the Chair or Clerk of the County Council or the County Executive of the County; and

(20) Such additional legal opinions, certificates, instruments and other documents as the Purchaser may reasonably deem necessary to evidence the truth and accuracy as of the time of the Closing of the representations and warranties of the County contained in Paragraph 4 of this Bond Purchase Contract and the due performance or satisfaction by the County at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the County pursuant to this Bond Purchase Contract.

8. Termination. The Purchaser may terminate this Bond Purchase Contract, without liability therefor, by notification to the County if at any time

subsequent to the date of this Bond Purchase Contract and at or prior to the Closing:

(a) There shall occur any change, or any development involving a prospective change, in or affecting the operations or financial condition of the County which, in the reasonable opinion of the Purchaser, materially impairs the investment quality, the marketability or the market price of the Bonds;

(b) Legislation shall have been enacted by the Congress of the United States, or introduced by amendment or otherwise in or passed by either House of the Congress, or recommended or endorsed to the Congress for passage by the President of the United States, or favorably reported for passage to either House of the Congress of the United States by any committee of such House to which such legislation has been referred for consideration or recommended or endorsed for passage or presented for consideration by any member of any such committee or by the Treasury Department of the United States, the Internal Revenue Service, or the staff of the Joint Committee on Taxation of the Congress, or a decision shall have been rendered by a court of the United States, or the United States Tax Court, or an order, ruling, regulation (final, temporary or proposed) or official statement shall have been made by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency of appropriate jurisdiction, the effect of which would be to cause interest on the Bonds or upon interest received on securities of the general character of the Bonds to be includable in gross income of the holders thereof for Federal income tax purposes, which in the reasonable opinion of the Purchaser would materially and adversely affect the marketability or the market price of the Bonds;

(c) There shall have occurred a declaration of war by the United States, any new outbreak of hostilities, or any escalation of existing hostilities, or any other national or international calamity or crisis, the effect of such outbreak, escalation, calamity or crisis being such as, in the reasonable opinion of the Purchaser, would materially and adversely affect the marketability or the market price of the Bonds;

(d) There shall have occurred the declaration of a general banking moratorium by any authority of the United States or the State of New York or the State of Washington;

(e) There shall be in force a general suspension of trading or other material restrictions not in force as of the date hereof on the New York Stock Exchange or other national securities exchange;



(f) Any rating of bonds, notes or other obligations of the County (including, without limitation, the Bonds) or the Bank shall have been downgraded, suspended or withdrawn, or the possibility of such a downgrading, suspension or withdrawal shall have been publicly announced, by Moody's Investors Service, Standard & Poor's Ratings Group or Fitch Investors Service and such action, in the reasonable opinion of the Purchaser, would materially and adversely affect the marketability or the market price of the Bonds;

(g) An event, fact or condition described in Paragraph 4(d) hereof shall have occurred or become known which, in the reasonable opinion of the Purchaser, would materially and adversely affect the ability of the Purchaser to market the Bonds or to enforce contracts for the sale of the Bonds and requires the preparation and publication of a supplement or amendment to the Official Statement;

(h) Any legislation, ordinance, rule or regulation shall be introduced in or enacted by any governmental body, board, department or agency of the State of Washington or the United States, or a decision by any court of competent jurisdiction within the State of Washington or any court of the United States shall be rendered, affecting the County, which, in the reasonable opinion of the Purchaser, will materially adversely affect the marketability or the market price of the Bonds;

(i) Legislation shall be enacted, or a decision of a court of the United States shall be rendered or any action shall be taken by, or on behalf of, the Securities and Exchange Commission or any other governmental agency having jurisdiction in the subject matter which, in the opinion of counsel to the Purchaser, has the effect of requiring the contemplated distribution of the Bonds to be registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or the Bond Ordinance to be qualified under the Trust Indenture Act of 1939, as amended;

(j) The New York Stock Exchange, or any governmental authority, shall impose, as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force or being enforced, or increase materially those now in force, with respect to the extension of credit by, or the charges to the net capital requirements of, underwriters; or

(k) The Purchaser has received notification that the conditions set forth in Paragraph 7(e) hereof will not be satisfied prior to, or at the time of, the Closing, as appropriate.

If the County shall be unable to satisfy the conditions to the obligations of the Purchaser to purchase, to accept delivery of and to pay for the Bonds contained in Paragraph 7 of this Bond Purchase Contract or if the obligations of the Purchaser to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by Paragraph 8 of this Bond Purchase Contract, then, unless the Purchaser has waived such satisfaction or terminating event, this Bond Purchase Contract shall terminate and, except as set forth in Paragraph 10 hereof, neither the Purchaser nor the County shall be under any further obligation hereunder.

9. Fees and Expenses. The Purchaser shall be under no obligation to pay and the County shall pay or cause to be paid the fees and expenses incident to the performance of its obligations hereunder including but not limited to (a) the cost of the preparation and printing, or other reproduction (for distribution on or prior to the date hereof) of the Bond Ordinance; (b) the fees and disbursements of Preston Gates & Ellis LLP, Seattle-Northwest Securities Corporation and any other experts or consultants retained by the County; (c) the cost of preparation and printing and signing of the Bonds and the registration of the Bonds in accordance with Paragraph 7; (d) the cost of preparation and printing of the Preliminary Official Statement and the cost of preparation and printing of the Official Statement, and any supplements or amendments thereto; (e) charges of rating agencies for the ratings of the Bonds; and (f) the Guaranty Payment. The Purchaser shall pay (1) the cost of preparation and printing of the Blue Sky and legal investment memoranda to be used by them, if any, and the cost, if any, of printing of this Bond Purchase Contract, (2) all advertising expenses incurred by them in connection with the public offering of the Bonds, (3) the fees and disbursements of Graham & James LLP/Riddell Williams P.S., counsel to the Purchaser, and (4) all other expenses incurred by them in connection with their public offering and distribution of the Bonds.

10. Survival of Provisions. The provisions of Paragraph 9 hereof and all the representations, warranties and agreements of the County made pursuant to this Bond Purchase Contract shall remain operative and in full force and effect and shall survive delivery of and payment for the Bonds hereunder or the termination of this Bond Purchase Contract, regardless of how caused.

11. Representations of Purchaser. The Purchaser is authorized to take any action under this Bond Purchase Contract required to be taken by the Purchaser.

12. Notices. Any notice or other communication to be given to the County under this Bond Purchase Contract (other than the acceptance hereof as specified in Paragraph 1 hereof) may be given by delivering the same in writing to the Director of Finance, King County, Washington, County Administration Building,

6th Floor, 500 Fourth Avenue, Seattle, Washington 98104; any notice or other communication to be given to the Purchaser under this Bond Purchase Contract may be given by delivering the same in writing to Smith Barney Inc., 601 Union Street, Suite 3400, Seattle, WA 98101, Attention: Jerry Bobo.

13. Governing Law. The validity, interpretation and performance of this Bond Purchase Contract shall be governed by the laws of the State of Washington.

14. Parties in Interest. This Bond Purchase Contract when accepted by the County in writing as heretofore specified shall constitute the entire agreement between the County and the Purchaser and is solely for the benefit of the County and the Purchaser (including the successors and assigns thereof). No other person shall acquire or have any right hereunder or by virtue hereof. All representations, warranties and agreements of the County in this Bond Purchase Contract shall remain operative and in full force and effect, regardless of (a) any investigation made by or on behalf of the Purchaser, (b) delivery of and payment for the Bonds hereunder, and (c) any termination of this Bond Purchase Contract.

15. Headings. The headings of the Sections of this Bond Purchase Contract are inserted for convenience only and shall not be deemed to be a part hereof.

16. Effectiveness. This Bond Purchase Contract shall become effective upon the execution of the acceptance hereof by the County Executive of the County and shall be valid and enforceable at the time of such acceptance.

17. Counterparts. This Bond Purchase Contract may be executed in several counterparts, which together shall constitute one and the same instrument.

SMITH BARNEY INC.

By: \_\_\_\_\_  
Director

Accepted and agreed to this 2nd day April, 1997:

KING COUNTY, WASHINGTON

By: \_\_\_\_\_  
Brad Duerr  
Finance Director

## APPENDIX A

[LETTERHEAD OF PRESTON GATES & ELLIS LLP]

\_\_\_\_\_, 1997

King County Council  
Seattle, Washington 98104

Smith Barney Inc.  
Seattle, Washington 98101

Re: \$150,000,000 KING COUNTY, WASHINGTON,  
LIMITED TAX GENERAL OBLIGATION VARIABLE RATE  
DEMAND BONDS, 1997 SERIES D (BASEBALL STADIUM)

At the request of King County, Washington (the "County"), we have served as Bond Counsel to the County for its issue of \$150,000,000 principal amount of Limited Tax General Obligation Variable Rate Demand Bonds, 1997 Series D (Baseball Stadium) (the "Bonds").

In such connection we have examined such documents and satisfied ourselves as to such matters as we have deemed relevant and necessary in order to enable us to express the opinions set forth below.

All capitalized terms used but not defined herein shall have the respective meanings ascribed thereto in the Bond Purchase Contract, dated April 2, 1997 (the "Bond Purchase Contract") between the Purchaser and the County. This opinion is being delivered to you pursuant to Paragraph 7(f)(4) of the Bond Purchase Contract.

It is our opinion that:

(1) The County is a political subdivision of the State of Washington duly organized and validly existing under the laws of the State of Washington.

(2) The County has all requisite right, power and authority to execute and deliver the Bond Purchase Contract, the Reimbursement Agreement and the Remarketing Agreement, to adopt the Bond Ordinance, and to observe and perform its obligations thereunder, and to carry out the transactions contemplated

thereby, including, without limitation, the payment to the Purchaser of the Underwriting Fee and the Guaranty Payment from proceeds of the Series A Bonds and the County has duly authorized, executed and delivered the Bond Purchase Contract, the Reimbursement Agreement, and the Remarketing Agreement, and the Bond Purchase Contract, the Reimbursement Agreement, the Remarketing Agreement and the Bond Ordinance constitute the legal, valid and binding obligations of the County enforceable in accordance with their respective terms except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights and remedies of creditors and by the availability of equitable remedies.

(3) The Bonds and all agreements related thereto are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Bond Ordinance is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

(4) The execution and delivery by the County of the Bonds, the Reimbursement Agreement, the Remarketing Agreement and the Bond Purchase Contract, and the adoption by the County of the Bond Ordinance and compliance with the provisions on the County's part contained therein will not conflict with or constitute a material breach of or default under any constitutional provisions, law or regulation of the United States, the State or the County.

(5) Other than as set forth in the Official Statement, no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court, government agency, public board or body is pending or threatened (i) in any way questioning the corporate existence of the County or titles of the officers of the County to their respective offices; (ii) in any way contesting, affecting or seeking to prohibit, restrain or enjoin the issuance or delivery of any of the Bonds, or the levy or collection of the taxes and other revenues pledged or to be pledged to pay the principal of and interest on the Bonds, including, without limitation, the following taxes and revenues: Food and Beverage Taxes; Car Rental Taxes; County Sales Taxes; State Lottery Receipts; Stadium Admissions Taxes; payments by or on behalf of the Club made pursuant to (A) the Ballpark Operations and Lease Agreement dated as of December 22, 1996, as amended, between the Club and the PFD and (B) Amendment No. 5; and State License Plate Receipts, or the pledge of such taxes and other revenues, or the application of the proceeds of sale of the Bonds; (iii) in any way contesting or affecting the validity of the Reimbursement Agreement, the Remarketing Agreement, the Bonds, the Bond Ordinance, the Act or the Bond Purchase Contract, or the tax-exempt status of the interest on the Bonds or contesting the powers of the County or any authority for the issuance of the Bonds, or the adoption of the Bond Ordinance, or the execution and delivery by the County of the Reimbursement Agreement, the Remarketing Agreement, or the

Bond Purchase Contract; (iv) which may result in any material adverse change relating to the operations or financial condition of the County; or (v) contesting the completeness or accuracy of the Official Statement, or asserting that the Official Statement contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and there is no basis for any such action, suit, proceeding, inquiry or investigation of the nature described above.

(6) The statements contained in the Official Statement (except for information regarding DTC and its book-entry only system and information regarding the Bank) under the captions "The Bonds, "Security and Sources of Payment for the Bonds," "Tax Exemption" and "Continuing Disclosure Undertaking," insofar as such statements purport to summarize provisions of the Bonds and the Bond Ordinance and to describe the treatment of interest on the Bonds under Federal income tax laws, present a fair and accurate summary of such provisions, and the statements of law and legal conclusions stated therein are correct.

(7) Although we have not verified and are not passing upon, and do not assume any responsibility for, the accuracy, completeness or fairness of the information contained in the Official Statement (except to the extent expressly set forth in paragraph (6) above), we have participated in the preparation of the Official Statement with officials of the County, Seattle-Northwest Securities Corporation, financial advisors to the County, the Purchaser, and Graham & James LLP/Riddell Williams P.S., counsel to the Purchaser, and, in the course of such participation, but without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, no facts have come to our attention that caused us to believe that the Official Statement (except for any financial, engineering or statistical data or forecasts, numbers, estimates, assumptions or expressions of opinion included therein, information regarding DTC and its book-entry only system and information regarding the Bank) as of its date, or as of the date hereof, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

We consent to references to us contained in the Official Statement.

Very truly yours,

PRESTON GATES & ELLIS LLP

By: \_\_\_\_\_

## APPENDIX A-2

[Letterhead of Preston Gates & Ellis LLP]

April \_\_\_\_, 1997

King County, Washington  
Seattle, Washington

Smith Barney Inc.  
Seattle, Washington

**Re: King County Washington Limited Tax General Obligation Bonds, 1997 Series B, Series C and Series D**

Ladies and Gentlemen:

We have acted as bond counsel in the matter of the issuance by King County, Washington (the "County") of its Limited Tax General Obligation Bonds, 1997 Series B, Series C and Series D in the principal sum of \$326,000,000 (the "Bonds"), issued for the purpose of providing funding to the Washington State Major League Baseball Stadium Public Facilities District (the "District") to construct a professional baseball stadium (the "Project") pursuant to Chapter 1, Laws of 1995, Third Special Session (the "Act"), Ordinance No. 12000 of the County passed on October 23, 1995, Ordinance No. 12593 of the County passed on January 6, 1997 and Ordinance No. \_\_\_\_\_ of the County passed on April 2, 1997 (collectively, Ordinance 12593 and Ordinance \_\_\_\_\_ are called the "Bond Ordinance"). Capitalized terms used herein and not otherwise defined shall have the meanings given in the Bond Ordinance.

As part of our undertaking as bond counsel we have participated in drafting and are familiar with the description of the litigation and initiative regarding the Project described in the Official Statement dated \_\_\_\_\_, 1997.

A special validation action brought by the County with respect to the Bonds and certain related matters currently is pending (the "Validation Action"). On February 26, 1997, the King County Superior Court entered an Order (the "Superior Court Order") declaring among other things, that Ordinance 12593 was validly enacted, that the County has the authority to issue, sell and deliver the

Bonds and that the Bonds, when issued, will be valid and enforceable obligations of the County. An appeal has been filed from the Superior Court Order directly with the Washington State Supreme Court (the "State Supreme Court") by the taxpayers representative appointed to represent the taxpayers of King County in the Validation Action ("Taxpayers' Representative").

A number of arguments were made by the Taxpayers' Representative challenging the validity of the Bonds and the Bond Ordinance to the Superior Court. All such arguments were rejected by the Supreme Court. It is anticipated that all of the arguments made by the Taxpayers' Representative will be raised again in the appeal to the State Supreme Court.

In the opinion of Bond Counsel the only issue which could be raised by the Taxpayers' Representative to the State Supreme Court which could affect the validity of the Bonds upon their issuance and prior to any Extraordinary Mandatory Redemption is whether the Bond Ordinance is subject to referendum. Bond Counsel has been asked to render an opinion that the claim that the Bond Ordinance is subject to referendum is without merit.

### **Legal Analysis**

Under the King County Charter ("KCC"), Section 230.70, unless otherwise specified in the ordinance, the effective date of an ordinance is 10 days after its enactment. If an ordinance may be subjected to a referendum, and if a proposed referendum petition is submitted to the Clerk of the County Council prior to the 10th day after enactment of an ordinance, the effective date of the ordinance is 45 days after its enactment, unless a later date is specified in the ordinance. If an ordinance is subjected to referendum, it cannot become effective until it is approved by the voters.

Under the KCC certain ordinances are exempted from the referendum process. Bond Ordinances are not, by terms of the Charter, specifically exempted from the referendum process.

Ordinance 12593, adopted by the King County Council on January 6, 1997 was the subject of a referendum petition filed on January 7, 1997. For purposes of this Opinion, Bond Counsel has assumed that, if the referendum petition filed against Ordinance 12593 should have been submitted to the voters, Ordinance 12593 is invalid and any other subsequent ordinances of King County supplementary thereto authorizing the issuance of the Bonds will also be invalid.

While the KCC, like the State Constitution, sets forth broad referendum and initiative rights, it is clear from decided cases of the Washington Supreme Court that even under such broad charter and constitutional provisions the initiative and



referendum are limited to subject matter which is legislative in nature, and that the initiative and the referendum do not apply to acts of government which are administrative in nature. Ruano v. Spellman, 81 Wn.2d 820, 505 P.2d 447 (1973); Ford v. Logan, 79 Wn.2d, 147, 154, 483 P.2d 1247 (1971); Bidwell v. Bellevue, 65 Wash. App. 43, 827 P.2d 339 (1992); Miller v. Spokane, 35 Wn.2d 113, 211 P.2d 165 (1949). See also Trautman, Initiative and Referendum in Washington: A Survey, 49 Washington Law Review, 55.

Several criteria have been suggested for determining when an act of government is legislative or administrative. In Ruano v. Spellman, *supra*, an opponent of the Kingdome project in Seattle filed an initiative which, if enacted, would have prohibited further spending of funds on the Kingdome and in effect terminated the Kingdome project. King County filed an action in Superior Court to block the initiative and argued that all legislative decisions regarding the construction and financing of the Kingdome had been made and that only administrative decisions remained to implement the legislative decisions. The Superior Court agreed with King County and held the initiative invalid.

On appeal, the Supreme Court, in analyzing the question of whether any legislative decisions remained regarding the Kingdome, established the standard in Washington for distinguishing between legislative and administrative acts (81 Wn.2d at 820, 823).

"We believe a preferable standard, at least for this case, to be whether the proposition is one to make new law or declare a new policy, or merely to carry out and execute policy already in existence." People v. Centralia, 1 Illinois App.2d 228, 117 NE 410 (1953); Heider v. Common Council, 37 Wis.2d 66, 155 NW.2d 17 (1967).

The Supreme Court reviewed the actions taken by the County Council in determining to construct the Kingdome. The Superior Court had found that: (a) an option to purchase the site for the Kingdome was exercised at a cost in excess of \$4,000,000; (b) a \$2,000,000 contract for architectural and engineering services was executed; (c) a \$25,000 contract to provide soil testing was signed; (d) a contract for independent cost estimates and construction scheduling was entered into by the County; and (e) certain bids had been advertised and issued to interested bidders.

The Supreme Court went on to say, 81 Wn.2d 820 at 824:

Quite apart from the tests suggested by Paget, it must be concluded that only administrative decisions remained. By its vote the electorate had declared its legislative policy to build a multi-purpose

stadium, to finance it by bonds, and to repay those bonds from specified sources. The legislative decision on site selection had been made. No new law would be involved in expending funds for those declared purposes. The County and its agents in making those expenditures simply were executing an already adopted legislative determination.

The Supreme Court held therefore that only administrative decisions remained with reference to the Kingdome Project and that the proposed initiative should be rejected.

To the same effect is Bidwell v. Bellevue, 65 Wash. App. 43, 827 P.2d 339 (1992). In that case the question before the court was whether an initiative petition requiring a vote of the people prior to the issuance of bonds to finance a Convention Center should be scheduled for a vote. In the Bidwell case, the appellate court also reviewed the history of events leading to the decision to issue bonds. Over the course of a year the City of Bellevue had (1) appointed a citizens committee to study the feasibility of a convention center; (2) adopted a resolution establishing the scope of the project and announced its intent to proceed with design, financing and construction of the convention center; (3) authorized the City Manager to begin acquisition of property for the convention center and selected an architect; (4) held a public meeting on whether to proceed with the convention center; (5) created the Bellevue Convention Center Authority ("BCCA") to carry out the construction and operation of the Center; (6) authorized the execution of leases and other agreements; and (7) authorized the BCCA to issue bonds.

After the above-described review, the appellate court concluded, citing Ruano, supra, that the action to be taken by the BCCA in issuing bonds was an administrative act implementing legislative policy decisions previously made. The appellate court held that the issuance of bonds by the BCCA was merely carrying out a legislative policy already in place and rejected the proposed initiative.

The factual review of events leading to the issuance of bonds and the expenditure of funds which was used by the Supreme Court in Ruano v. Spellman, supra, and by the Court of Appeals in Bidwell v. Bellevue, supra, in determining that only administrative acts remained in those cases, when applied to the facts in the instant case reveal substantially identical fact patterns.

In the instant case, the King County Council, on October 23, 1995, adopted Ordinance 12000, which, pursuant to the Act's grant of authority to the "County legislative authority," effectively implemented the comprehensive statutory scheme established by the Act leading to the acquisition, financing and construction of the Project. Ordinance 12000 created the Public Facilities District, imposed a 0.017% sales and use tax (which is credited against the state-wide sales and use tax),

imposed a local car rental tax and a local tax on sales in restaurants, taverns and bars, and stated the County's intent to issue bonds for the project, as required by the Act. Ordinance 12000 also contained certain administrative measures, such as the creation of an Independent Financial Review Committee to assure that, consistent with the Act, the County would not issue bonds in excess of the amount that could be serviced by the revenues provided for under the Act.

Over the next 15 months many acts were taken by the County and the District in regard to the construction and financing of the Project. Among other things (1) the District, pursuant to the Act, and Ordinance 12000, entered into a Development Agreement with the Seattle Baseball Club ("Club") which set for the general terms and conditions for design of the Project; (2) the District retained and paid architectural consultants to design the project, which design is complete or nearly so; (3) the District has, in consultation with the County and the Club selected the site for the Project; (4) the County has assembled through purchase and condemnation land for the site; (5) petitions to vacate streets have been filed by the District with the City of Seattle to complete the site assembly; (6) Interlocal Agreements have been entered into among the County, the City of Seattle and the District with reference to the Project; (7) the District has spent approximately \$33,000,000 (advanced to it by the County) in carrying out its obligations under the Act and Ordinance 12000; (8) the County Executive has provided the certification requested by the Act; (9) the District has executed a long-term lease with the Club requiring the Club to play baseball in Seattle for 20 years and meeting this other requirement of the Act; (10) a general contractor has been selected; and (11) the District has requested the County to issue the Bonds. All of the legislative decisions regarding whether to construct the Project, where to construct the Project, the design of the Project, how to finance the Project, who will be the tenant for the Project and who will build the Project have been made.

Further, the Bond Ordinance is not subject to referendum because the Act mandates the issuance of the bonds authorized by the Ordinance. Section 201(3) of the Act requires the County to issue bonds in an amount to be determined to be necessary by the PFD for the District to construct, own and equip the baseball stadium. Use of the word "shall" in a legislative enactment is presumptively mandatory. Crown Cascade, Inc. v. O'Neal, 100 Wn.2d 256, 261, 668 P.2d 585 (1983). The terms of the Act provide that once all conditions precedent thereto have been met, the County is under the mandate of the legislature to issue the bonds. Act, § 201(3). The state made clear that "shall" is mandatory by expressly providing only one criterion for relief from the "obligation" to issue bonds; insufficient revenues to support the bonds. Act, § 201(3). Because the County's obligation to issue bonds is mandatory, the people exercising their charter based referendum rights may not contravene state law and subject to referendum an ordinance which is mandated by state law. Miller v. Spokane, 35 Wn.2d 113,

115, 211 P.2d 165 (1949). As such, Ordinance 12593 is not subject to referendum.

### **Conclusion**

Based upon the standard for determining what is a legislative act and what is an administrative act of government and comparing the facts of this case with the facts and law set forth in Ruano supra and Bidwell supra, it is the opinion of Bond Counsel that the decision of King County to authorize the issuance of \$336,000,000 of bonds to finance the Project pursuant to Ordinance 12593 and any ordinance supplementary thereto was and will be an administrative act not subject to referendum. If this issue is properly briefed and presented to the State Supreme Court in an appeal of the Validation Action, it is the opinion of Bond Counsel that the State Supreme Court will hold that Ordinance 12593 was not subject to referendum and that any claim to the contrary thereto is without merit.

Very truly yours,

PRESTON GATES & ELLIS LLP

By

Jay A. Reich

12686

**APPENDIX B**

[Letterhead of King County Prosecuting Attorney]

[Attach "No-Merit" Opinion]



## APPENDIX C-1

\_\_\_\_\_, 1997

Washington State Major League Baseball Stadium  
Public Facilities District  
401 2nd Avenue South  
Seattle, Washington 98104

Re: Escrow Fund Deposit Agreement

Ladies and Gentlemen:

We have acted as special finance counsel to the Washington State Major League Baseball Stadium Public Facilities District (the "District") in connection with the issuance by King County, Washington (the "County") of its [Limited Tax General Obligation Bonds, 1997 Series A-1, Limited Tax General Obligation Bonds, 1997 Series A-2 (Taxable), Limited Tax General Obligation Bonds, 1997 Series B (Baseball Stadium), Limited Tax General Obligation Bonds, 1997 Series C (Taxable) (Baseball Stadium Parking Facilities) and Limited Tax General Obligation Variable Rate Demand Bonds, 1997 Series D (Baseball Stadium)] (collectively, the "Bonds").

Upon their issuance, the proceeds of the Bonds designated as 1997 Series B, 1997 Series C and 1997 Series D (collectively the "Escrowed Bonds") are being transferred by the County to the District pursuant to County Ordinances Nos. 12000, 12593 and \_\_\_\_ and pursuant to a Financing Agreement dated March 18, 1996, between the County and the District, as amended (the "Financing Agreement"). Under the provisions of Chapter 1, 1995 Laws of Washington, 3rd Spec. Sess. (the "Act"), the above-referenced ordinances and the Financing Agreement, the County is obligated to transfer certain amounts to the District, from the sources specified therein so that the District may proceed to acquire, construct, own, remodel, maintain, equip, repair and operate a major league baseball stadium (the "Stadium"). Under the Financing Agreement and [list other relevant PFD-County agreements], in consideration for its receipt of funds and other assistance from the County, the District is obligated to proceed with the construction and operation of the Stadium consistent with the provisions of the above-referenced ordinances, agreements and the Act. Upon receipt of proceeds of the Escrowed Bonds from the County, the District has agreed to deposit those proceeds with The Bank of New York (the "Escrow Agent") pursuant to an Escrow Fund Deposit Agreement dated as of April \_\_\_, 1997 (the "Escrow Agreement"). Under the Escrow Agreement, the Escrow Agent will hold those proceeds of the Escrowed Bonds until released pursuant to the provisions of County Ordinance \_\_\_\_ and the Escrow Agreement.

In our capacity as special counsel to the District, we have examined originals, or copies certified or otherwise identified to our satisfaction as being true copies of originals, of such documents, records and other instruments as we have deemed necessary or appropriate for purposes of this opinion including without limitation (i) Ordinances Nos. 12000, 12593 and \_\_\_\_; (ii) the Financing Agreement; (iii) the Act; (iv) the Escrow Agreement; (v) Resolution No. 97-\_\_\_\_ of the District; and (vi) [\_\_\_\_\_].

Based on the foregoing, and except only to the extent that enforcement of payment may be limited by bankruptcy, insolvency or other laws affecting creditors' rights and by the application of equitable principles and the exercise of judicial discretion in appropriate cases, we are of the opinion that:

1. The District is a duly organized and legally existing public facilities district formed pursuant to and in compliance with Chapter 36.100 RCW and the Act.
2. The District has duly authorized its Executive Director to execute the Escrow Agreement on behalf of the District.
3. The Escrow Agreement has been duly executed by the Executive Director as the authorized representative of the District, and, assuming the due execution of the Escrow Agreement on behalf of the Escrow Agent, the Escrow Agreement will be a valid, binding and enforceable obligation of the District in accordance with its terms. The authority and obligation of the Escrow Agent to transfer the Escrowed Proceeds in accordance with the Escrow Agreement will not be affected by any final determination in King Co. v. Taxpayers of King Co., Washington State Supreme Court No. 65048-9.

This opinion is limited to the matters set forth in the numbered paragraphs immediately above, is solely for your benefit, and may not be relied upon or used, circulated, quoted or referred to, nor may copies hereof be delivered to any other person without our prior written approval. We bring to your attention the fact that the foregoing opinions are expressions of our professional judgment on the matters expressly addressed and do not constitute guarantees of result.

Respectfully submitted,

FOSTER PEPPER & SHEFELMAN

By

Hugh D. Spitzer



## APPENDIX C-2

[Letterhead of Foster Pepper & Shefelman]

April \_\_, 1997

Smith Barney, Inc.  
601 Union Street, Suite 3400  
Seattle, Washington, 98101

**Re: Escrow Fund Deposit Agreement**

As special finance counsel to the Washington State Major League Baseball Stadium Public Facilities District (the "District"), we have rendered a legal opinion dated April \_\_, 1997, regarding an Escrow Fund Deposit Agreement between the District and The Bank of New York as Escrow Agent (the "Escrow Agent"), which opinion is addressed to the District and the Escrow Agent. You may rely on that opinion as though it were addressed to you.

Very truly yours,

FOSTER PEPPER & SHEFELMAN

By

Hugh D. Spitzer

## APPENDIX D

[LETTERHEAD OF BANK COUNSEL]

\_\_\_\_\_, 1997

King County Council  
Seattle, Washington

Smith Barney Inc.  
Seattle, Washington

Moody's Investors Service  
New York, New York

Standard & Poor's Ratings Services,  
a Division of The McGraw-Hill Companies, Inc.  
New York, New York

Re: \$150,000,000 KING COUNTY, WASHINGTON, LIMITED TAX  
GENERAL OBLIGATION VARIABLE RATE DEMAND BONDS,  
1997 SERIES D (BASEBALL STADIUM)

We have acted as special counsel to Bank of America National Trust and Savings Association doing business as Seafirst Bank, a banking corporation (the "Bank") in connection with that certain Reimbursement Agreement (the "Reimbursement Agreement"), dated as of \_\_\_\_\_, 1997 between the Bank and King County, Washington (the "County"), and in connection with the transactions contemplated thereby. The capitalized terms used and not defined herein are used as defined in the Reimbursement Agreement.

In this regard, we have reviewed executed originals or copies of the following, copies of which have been delivered to you:

- (a) The Letter of Credit No. \_\_\_\_\_ issued by the Bank on the date hereof (the "Letter of Credit");
- (b) Such records, documents, instruments and certificates of public officials and of the Bank as we have deemed necessary for the purpose of rendering the opinions set forth herein.

### Opinions

Based solely upon our review of such documents and our examination of such legal considerations as we deem relevant, we are of the following opinions:

1. The Bank is in good standing as a banking organization under the laws of the State of \_\_\_\_\_.
2. The Bank has the corporate power to execute and deliver the Letter of Credit and to perform its obligations thereunder.
3. The issuance of the Letter of Credit has been duly authorized by, and the Letter of Credit has been duly executed and delivered by, the Bank.
4. The Letter of Credit constitutes the legal, valid and binding obligation of the Bank enforceable against it in accordance with its terms except as such enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, receivership, conservatorship, reorganization, arrangement, liquidation, moratorium or other similar laws affecting the enforcement of creditors' rights in general or creditors' rights of creditors of depository institutions, the accounts of which are insured by the Federal Deposit Insurance Corporation, heretofore or hereafter enacted, as such laws may be applied in the event of bankruptcy, insolvency, reorganization, arrangement, receivership, conservatorship, liquidation, readjustment of debt or other similar proceedings of, or moratorium or similar occurrence affecting the Bank.

### Certain Assumptions

With your permission we have assumed (a) the authenticity of original documents and the genuineness of all signatures (except for the signatures of those persons executing the Letter of Credit on behalf of the Bank); (b) the conformity to the originals of all documents submitted to us as copies; (c) the truth, accuracy and completeness of the information, representations and warranties contained in the records, documents, instruments and certificates we have reviewed; and (d) except as specifically covered in the opinions set forth above, the due authorization, execution, and delivery on behalf of the respective parties thereto of the documents referred to herein and the legal, valid, and binding effect thereof on such parties.

### Certain Limitations and Qualifications

We express no opinion as to whether a court, in the exercise of its equitable powers, may temporarily restrain payment of a draft drawn under the Letter of Credit.

We express no opinion as to matters governed by laws other than the laws of the State of \_\_\_\_\_ and the federal law of the United States of America.

We express no opinion with respect to federal or state securities laws, blue sky laws or laws related to disclosure or their application to any of the documents referred to herein or any transaction contemplated hereunder.

Use of Opinion

This opinion is solely for your benefit in connection with the transactions covered by the first paragraph of this letter and may not be relied upon or used by, circulated, quoted or referred to, nor may copies hereof be delivered to, any other person without our prior written approval. We disclaim any obligation to update this opinion letter for events occurring or coming to our attention after the date hereof.

Very truly yours,

# 12686

## SCHEDULE 1

J.P. Morgan & Co.

E.J. De La Rosa & Co., Inc.

Siebert Brandford Shank Inc.

## SCHEDULE 2

### MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, AND MANDATORY AND OPTIONAL REDEMPTION PROVISIONS

#### Series D Bonds Maturity Schedule\*

<u>Year</u> <u>December 1</u>	<u>Principal Amount</u>
1999	\$ 2,935,000
2000	4,285,000
2001	5,435,000
2002	6,705,000
2003	8,110,000
2004	9,645,000
2005	11,325,000
2006	13,160,000
2007	15,165,000
2008	17,350,000
2009	19,730,000
2010	22,320,000
2011	13,835,000

\*Maturities are subject to change upon conversion to Fixed Rate Bonds and remarketing thereof.

#### Variable Rate Optional Redemption

The Series D Bonds bearing interest at a Variable Rate shall be subject to optional redemption by the County in whole or in part at a redemption price of par on any date, plus accrued interest, if any, to the redemption date.

#### Variable Rate Extraordinary Mandatory Redemption

The Series D Bonds are subject to extraordinary mandatory redemption as and when provided in the Bond Ordinance, at a redemption price of the principal amount of such Bonds to be redeemed, plus accrued interest to the date of redemption.

### **Optional Redemption Upon Conversion to Fixed Rate**

After conversion to Fixed Rate Bonds, the Series D Bonds maturing on and after December 1, 2008 will be subject to redemption prior to maturity, at the option of the County, from any available funds, on any date on or after December 1, 2007, in whole or in part, at the following prices, which are expressed as a percentage of the principal amount of the Bonds:

<u>Redemption Periods (inclusive)</u>	<u>Redemption Price</u>
December 1, 2007 to November 30, 2008	102%
December 1, 2008 to November 30, 2009	101%
December 1, 2009 and thereafter	100%

If fewer than all of the Bonds subject to optional redemption are called for redemption, the County will choose the maturities to be redeemed. If less than the whole of a maturity is called for redemption, the Bonds to be redeemed will be chosen by lot by the Bond Registrar or, if the Bonds are registered in the name of Cede & Co. or its registered assign, the Bonds of such maturity to be redeemed will be chosen by lot by DTC.

### **Extraordinary Mandatory Redemption Upon Conversion to Fixed Rate**

After conversion to Fixed Rate Bonds, the Series D Bonds are subject to extraordinary mandatory redemption as and when provided in the Bond Ordinance, at a redemption price equal to the principal amount of such Bonds to be redeemed, at the initial offering prices of each maturity for such Bonds, plus accrued interest to the date of redemption.

# Schedule 3

	Rest/Tavern Tax Revenues	Car Rental Tax Revenues	Sales Tax Credit Revenues	Tax-Exempt Available Revenues*	Series A-1 Debt Service	Series B Debt Service	Series D Debt Service**	Less: D/S Paid From Lottery Revenues	Total Debt Service	Debt Service Coverage***
1999	11,108,593	4,705,865	5,112,290	20,926,748	333,113	9,136,670	11,343,614	(3,374,592)	17,438,805	1.20
2000	11,530,719	4,978,806	5,306,557	21,816,082		9,136,670	12,549,565	(3,509,576)	18,176,659	1.20
2001	11,980,417	5,272,555	5,513,513	22,766,485		9,136,670	13,484,973	(3,649,959)	18,971,684	1.20
2002	12,459,634	5,588,909	5,734,053	23,782,596		9,136,670	14,477,354	(3,795,957)	19,818,067	1.20
2003	12,970,479	5,929,832	5,969,149	24,869,461		9,136,670	15,533,158	(3,947,795)	20,722,033	1.20
2004	13,502,269	6,291,552	6,213,885	26,007,705		9,136,670	16,637,681	(4,105,707)	21,668,644	1.20
2005	14,055,862	6,675,336	6,468,654	27,199,852		9,136,670	17,796,081	(4,269,935)	22,662,816	1.20
2006	14,632,152	7,082,532	6,733,869	28,448,553		9,136,670	19,007,302	(4,440,733)	23,703,239	1.20
2007	15,232,070	7,514,566	7,009,957	29,756,594		9,136,670	20,274,291	(4,618,362)	24,792,599	1.20
2008	15,856,585	7,972,955	7,297,365	31,126,906		9,136,670	21,601,257	(4,803,097)	25,934,830	1.20
2009	16,506,705	8,459,305	7,596,557	32,562,568		9,136,670	22,990,922	(4,995,221)	27,132,371	1.20
2010	17,183,480	8,975,323	7,908,016	34,066,819		9,136,670	24,444,872	(5,195,029)	28,386,513	1.20
2011	17,888,003	9,522,817	8,232,245	35,643,065		20,451,670	14,652,370	(5,402,831)	29,701,209	1.20
2012	18,621,411	10,103,709	8,569,767	37,294,887		36,696,058		(5,618,944)	31,077,114	1.20
2013	19,384,889	10,720,036	8,921,127	39,026,052		38,364,878		(5,843,701)	32,521,177	1.20
2014	20,179,669	11,373,958	9,286,894	40,840,521		40,106,250		(6,077,450)	34,028,800	1.20
2015	21,007,036	12,067,769	9,667,656	42,742,461		41,935,350		(6,320,548)	35,614,802	1.20
2016	3,644,721	2,133,984	1,677,338	7,456,043		6,211,600		0	6,211,600	1.20
<b>TOTAL</b>	<b>267,744,696</b>	<b>135,369,808</b>	<b>123,218,893</b>	<b>526,333,397</b>	<b>333,113</b>	<b>293,405,845</b>	<b>224,793,439</b>	<b>0</b>	<b>438,562,959</b>	

\*Does not include Lottery Revenues

\*\*Actual Series D debt service and annual debt service coverages are subject to change upon Series D conversion to fixed rates, but overall average coverage of 1.20x will be met per Ordinance requirement.

\*\*\*Tax-Exempt Available Revenues divided by Total Debt Service.

Average D/S Coverage (1999-2016):

1.20



April \_\_, 1997

King County, Washington  
Seattle, Washington

Smith Barney Inc.  
Seattle, Washington

Re: King County Washington Limited Tax General Obligation Bonds, 1997, Series B,  
Series C and Series D

Ladies and Gentlemen:

Since 1979, I have been the elected Prosecuting Attorney for King County with statutory responsibility for legal advice and representation of King County. Preston Gates and Ellis has acted as King County's bond counsel in the matter of the issuance by King County, Washington (the "County") of its Limited Tax General Obligation Bonds, 1997 Series B, Series C and Series D in the principal sum of \$326,000,000 (the "Bonds"), issued for the purpose of providing funding to the Washington State Major League Baseball Stadium Public Facilities District (the "District") to construct a professional baseball stadium (the "Project") pursuant to Chapter 1, Laws of 1995, Third Special Session (the "Act"), Ordinance No. 12000 of the County passed on October 23, 1995, Ordinance No. 12593 of the County passed on January 6, 1997 and Ordinance No. \_\_\_\_\_ of the County passed on April \_\_, 1997 (collectively, Ordinance 12593 and Ordinance \_\_\_\_\_ are called the "Bond Ordinance"). Capitalized terms used herein and not otherwise defined shall have the meanings given in the Bond Ordinance.

As the statutory attorney for King County, I am familiar with the initiative and litigation regarding the Project described in the Official Statement dated March 24, 1997.

Our office initiated a special declaratory judgment action with respect to the Bonds and certain related matters which is currently pending (the "Validation Action"). On February 26, 1997, the King County Superior Court entered an Order (the "Superior Court Order") declaring among other things, that Ordinance 12593 was validly enacted, that the County has the authority to issue, sell and deliver the Bonds and that the Bonds, when issued, will be valid and enforceable obligations of the County. A number of arguments were made by the taxpayers' representative appointed to represent the taxpayers of King County in the validation action (the "Taxpayers' Representative") challenging the validity of the Bonds and the Bond Ordinance to the Superior Court. All such arguments were rejected by the Superior Court.

EXHIBIT B

An appeal has been filed from the Superior Court Order directly with the Washington State Supreme Court (the "State Supreme Court") by the Taxpayers' Representative. It is anticipated that all of the arguments made by the Taxpayers' Representative will be raised again in the appeal to the State Supreme Court.

In the opinion of King County's Bond Counsel the only issue which could be raised by the Taxpayers' Representative to the State Supreme Court which could affect the validity of the Bonds upon their issuance and prior to any Extraordinary Mandatory Redemption is whether the Bond Ordinance is subject to referendum. Our clients in consultation with Bond Counsel have asked our office to render an opinion that the claim that the Bond Ordinance is subject to referendum is without merit.

### **Legal Analysis**

Under the King County Charter ("KCC"), Section 230.70, unless otherwise specified in the ordinance, the effective date of an ordinance is 10 days after its enactment. If an ordinance may be subjected to a referendum, and if a proposed referendum petition is submitted to the Clerk of the County Council prior to the 10th day after enactment of an ordinance, the effective date of the ordinance is 45 days after its enactment, unless a later date is specified in the ordinance. If an ordinance is subjected to referendum, it cannot become effective until it is approved by the voters.

Under the KCC certain ordinances are exempted from the referendum process. Bond Ordinances are not, by terms of the Charter, specifically exempted from the referendum process.

Ordinance 12593, adopted by the King County Council on January 6, 1997 was the subject of a referendum petition filed on January 7, 1997. On January 7, 1997, a referendum petition was filed with the Clerk of the King County Council ("the Clerk"). In a letter dated January 10, 1997, our office advised the Clerk that Ordinance 12593 was not subject to referendum.

While the KCC, like the State Constitution, sets forth broad referendum and initiative rights, it is clear from decided cases of the Washington Supreme Court that even under such broad charter and constitutional provisions the initiative and referendum are limited to subject matter which is legislative in nature, and that the initiative and the referendum do not apply to acts of government which are administrative in nature. Ruano v. Spellman, 81 Wn.2d 820, 505 P.2d 447 (1973); Ford v. Logan, 79 Wn.2d 147, 154, 483 P.2d 1247 (1971); Bidwell v. Bellevue, 65 Wash. App. 43, 827 P.2d 339 (1992); Miller v. Spokane, 35 Wn.2d 113, 211 P.2d

King County, Washington  
Smith Barney  
April \_\_, 1997  
Page 3

165 (1949). See also Trautman, Initiative and Referendum in Washington: A Survey, 49 Washington Law Review 55 (1973).

Several criteria have been suggested for determining when an act of government is legislative or administrative. In Ruano v. Spellman, *supra*, an opponent of the Kingdome project in Seattle filed an initiative which, if enacted, would have prohibited further spending of funds on the Kingdome and in effect terminated the Kingdome project. As Chief Civil Deputy for King County from 1971 to 1978, I filed an action on behalf of King County in Superior Court to block the initiative and argued that all legislative decisions regarding the construction and financing of the Kingdome had been made and that only administrative decisions remained to implement the legislative decisions. The Superior Court agreed with King County and held the initiative invalid.

On appeal, the Supreme Court, in analyzing the question of whether any legislative decisions remained regarding the Kingdome, established the standard in Washington for distinguishing between a legislative and administrative act.

We believe a preferable standard, at least for this case, to be whether the proposition is one to make new law or declare a new policy, or merely to carry out and execute policy already in existence. People v. Centralia, 1 Illinois App.2d 228, 117 NE 410 (1953); Heider v. Common Council, 37 Wis.2d 66, 155 NW.2d 17 (1967).

81 Wn.2d at 823.

The Supreme Court reviewed the actions taken by the County Council in determining to construct the Kingdome. The Superior Court had found that: (a) an option to purchase the site for the Kingdome was exercised at a cost in excess of \$4,000,000; (b) a \$2,000,000 contract for architectural and engineering services was executed; (c) a \$25,000 contract to provide soil testing was signed; (d) a contract for independent cost estimates and construction scheduling was entered into by the County; and (e) certain bids had been advertised and issued to interested bidders.

The Supreme Court went on to say:

Quite apart from the tests suggested by Paget, it must be concluded that only administrative decisions remained. By its vote the electorate had declared its legislative policy to build a multi-purpose stadium, to finance it by bonds, and to repay those bonds from specified sources. The legislative decision on site selection had been made. No new law would be involved in expending funds for

those declared purposes. The County and its agents in making those expenditures simply were executing an already adopted legislative determination.

81 Wn.2d at 824.

The Supreme Court held therefore that only administrative decisions remained with reference to the Kingdome project and that the proposed initiative should be rejected.

To the same effect is Bidwell v. Bellevue, 65 Wn. App. 43, 827 P. 2d 339 (1992). In that case the question before the court was whether an initiative petition requiring a vote of the people prior to the issuance of bonds to finance a Convention Center should be scheduled for a vote. In the Bidwell case, the appellate court also reviewed the history of events leading to the decision to issue bonds. Over the course of a year the City of Bellevue had (1) appointed a citizens committee to study the feasibility of a convention center; (2) adopted a resolution establishing the scope of the project and announced its intent to proceed with design, financing and construction of the convention center; (3) authorized the City Manager to begin acquisition of property for the convention center and select an architect; (4) held a public meeting on whether to proceed with the convention center; (5) created the Bellevue Convention Center Authority ("BCCA") to carry out the construction and operation of the Center; (6) authorized the execution of leases and other agreements, and (7) authorized the BCCA to issue bonds.

After the above-described review, the appellate court concluded, citing Ruano, supra, that the action to be taken by the BCCA in issuing bonds was an administrative act implementing legislative policy decisions previously made. The appellate court held that the issuance of bonds by the BCCA was merely carrying out a legislative policy already in place and rejected the proposed initiative.

The factual review of events leading to the issuance of bonds and the expenditure of funds which was used by the Supreme Court in Ruano v. Spellman, supra, and by the Court of Appeals in Bidwell v. Bellevue, supra, in determining that only administrative acts remained in those cases, when applied to the facts in the instant case reveal substantially identical fact patterns.

In the instant case, the King County Council, on October 23, 1995, adopted Ordinance 12000, which, pursuant to the Act's grant of authority to the "County legislative authority", effectively implemented the comprehensive statutory scheme established by the Act leading to the acquisition, financing and construction of the Project. Ordinance 12000 created the Public Facilities District, imposed a 0.017% sales and use tax (which is credited against the state-wide sales and use tax), imposed a local car rental tax and a local tax on sales in restaurants,

taverns and bars, and stated the County's intent to issue bonds for the project, as required by the Act. Ordinance 12000 also contained certain administrative measures, such as the creation of an Independent Financial Review Committee to assure that, consistent with the Act, the County would not issue bonds in excess of the amount that could be serviced by the revenues provided for under the Act.

Over the next 15 months many acts were taken by the County and the District in regard to the construction and financing of the Project. Among other things (1) the District, pursuant to the Act, and Ordinance 12000, entered into a Development Agreement with the Seattle Baseball Club ("Club") which set forth the general terms and conditions for design of the Project; (2) the District retained and paid architectural consultants to design the project, which design is complete or nearly so; (3) the District has, in consultation with the County and the Club selected the site for the Project; (4) the County has assembled through purchase and condemnation land for the site; (5) petitions to vacate streets have been filed by the District with the City of Seattle to complete the site assembly; (6) Interlocal Agreements have been entered into among the County, the City of Seattle and the District with reference to the Project; (7) the District has spent approximately \$33,000,000 (advanced to it by the County) in carrying out its obligations under the Act and Ordinance 12000; (8) the County Executive has provided the certification required by the Act; (9) the District has executed a long-term lease with the Club requiring the Club to play baseball in Seattle for 20 years and meeting this other requirement of the Act; (10) a general contractor has been selected; and (11) the District has requested the County to issue the Bonds. All of the legislative decisions regarding whether to construct the Project, where to construct the Project, the design of the Project, how to finance the Project, who will be the tenant for the Project and who will build the Project have been made.

Further, as we advised previously, the Bond Ordinance is not subject to referendum because the Act mandates the issuance of the bonds authorized by the Ordinance. Section 201(3) of the Act requires the County to issue bonds in an amount to be determined to be necessary by the PFD for the District to construct, own and equip the baseball stadium. Use of the word "shall" in a legislative enactment is presumptively mandatory. Crown Cascade, Inc. v. O'Neal, 100 Wn.2d 256, 261, 668 P.2d 585 (1983). The terms of the Act provide that once all conditions precedent thereto have been met, the County is under the mandate of the legislature to issue the bonds. Act, § 201(3). The state made clear that "shall" is mandatory by expressly providing only one criterion for relief from the "obligation" to issue bonds; insufficient revenues to support the bonds. Act, § 201(3). Because the County's obligation to issue bonds is mandatory, the people exercising their charter based referendum rights may not contravene state law and subject to referendum an ordinance which is mandated by state law. Miller v. Spokane, 35 Wn.2d 113, 115, 211 P.2d 165 (1949). As such, Ordinance 12593 is not subject to referendum.

### **Conclusion**

Based upon the standard for determining what is a legislative act and what is an administrative act of government and comparing the facts of this case with the facts and law set forth in Ruano, supra and Bidwell, supra, it is the opinion of our office that the decision of King County to authorize the issuance of \$336,000,000 of bonds to finance the Project pursuant to Ordinance 12593 and any ordinance supplementary thereto was and will be an administrative act not subject to referendum. If this issue is properly briefed and presented to the State Supreme Court in an appeal of the Validation Action, it is my opinion, as King County Prosecuting Attorney, that the State Supreme Court will hold that Ordinance 12593 was not subject to referendum and that any claim to the contrary thereto is without merit.

Sincerely,

NORM MALENG  
Prosecuting Attorney



## Exhibit G

**Kerrin M. Gibbons**  
Vice President  
Public Sector Banking

April 2, 1997

To: Attached Distribution List

Re: King County Series A Bonds

Bank of America National Trust and Savings Association, doing business as Seafirst Bank ("Seafirst" or "Bank") is pleased to provide King County (the "County") with the following purchase offer for term financing to support issuance costs of the stadium bonds.

**Borrower:** King County  
**Facility**  
**Description:** \$10,000,000 Limited Tax General Obligation Bond  
\$9,000,000 tax exempt, non-bank qualified (Series A-1)  
\$1,000,000 taxable (Series A-2)  
**Closing:** 4-14-97  
**Final Maturity:** Series A-1: 12-1-99  
Series A-2: 12-1-99  
**Payments:** Interest due semi-annually, on June 1 and December 1 of each year beginning December 1, 1997. Principal due annually on December 1 of each year beginning December 1, 1997. Principal and interest payments due per the attached debt service schedule.  
**Fixed Rate:** Fixed rate locked in, per attached Fixed Rate Forward Commitment.  
**Tax Exempt:** Series A-1: 5.75%  
**Taxable:** Series A-2: 7.22%  
**Fees:** No Bank fees. The County is responsible for bond counsel fees, and Bank's legal costs.  
**Prepayment:** Prepayments of the Bonds may be subject to prepayment fee under the same formula attached as an exhibit to the Fixed Rate Forward Commitment.  
**Documentation:** Purchase offer is subject to receipt and satisfactory review of documentation.  
**Expiration:** Offer will expire at the close of business on April 2, 1997; and if accepted by that date shall expire if bond sale does not occur by April 14, 1997.

Offer is subject to receipt and satisfactory review of the following:

- 1) Legal opinion from County's Bond Counsel, satisfactory to the Bank, stating the Bonds are legal, valid and binding obligations of the County, without qualification; and Series A-1 is tax-exempt under the federal Internal Revenue Code of 1986, as amended;
- 2) A copy of the ordinance passed by County Council, authorizing the issuance of Bonds;
- 3) Receipt of bonds at closing;
- 4) Review and approval of final documentation by Seafirst legal counsel;





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April 2, 1997  
Page 2

- 5) A copy of the filed IRS Form 8038-G regarding the Series A-1 Bond;
- 6) Annual financial statements as available.

Seafirst is pleased to submit this proposal to the County. Based on our experience, Seafirst expects to be able to work with King County and its financial team to close this transaction quickly.

Sincerely,

Ned

Edward P. Palmer



Kerrin M. Gibbons

**ORAL AGREEMENTS TO LOAN MONEY, TO EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

Accepted (This offer shall not be deemed accepted unless the attached Fixed Rate Forward Commitment is also executed by the undersigned prior to the close of business on April 2, 1997).

KING COUNTY, WASHINGTON

By \_\_\_\_\_

Title \_\_\_\_\_



**FIXED RATE FORWARD COMMITMENT**

This fixed rate forward commitment (Agreement) is a mutual promise between Bank of America National Trust and Savings Association, doing business as Seafirst Bank (Holder) to advance funds and the undersigned borrower, King County, Washington (Borrower) to borrow funds in the future at a rate that is set today.

Holder agrees to enter into a fixed rate forward commitment with Borrower as follows:

- The forward commitment shall expire on the earlier of the date on which the entire principal balance is advanced to Borrower or April 14, 1997 (Expiration Date).
- Upon written request of Borrower, upon satisfaction of all conditions to Holder's bond purchase commitment dated April 2, 1997, to which this fixed rate forward commitment is attached (Purchase Offer), Holder shall advance all of the principal balance of \$10,000,000.00 (Loan Amount) on or before the Expiration Date with \$9,000,000 to be in the form of a tax-exempt, nonbank qualified bond (Series A-1 Bond) and \$1,000,000 to be in the form of a taxable bond (Series A-2 Bond).
- Interest on the Series A-1 Bond (\$9,000,000/tax-exempt) from date of advance shall be at a fixed rate of 5.75%, and interest on the Series A-2 Bond (\$1,000,000/taxable) from date of advance shall be at a fixed rate of 7.22%, with payment terms as set forth in the Purchase Offer.

Borrower agrees to enter into a fixed rate forward commitment with Holder and is obligated as follows:

- Borrower shall borrow the entire Loan Amount on or before Expiration Date.
- Any principal balance not disbursed, in whole or in part, whether by voluntary election, termination of the commitment in the event of default, operation of law or otherwise, by the Expiration Date shall be deemed a prepayment of said funds and subject at the option of the Holder to a "Prepayment Fee" as stipulated in Exhibit 1 attached hereto, where:
  - the undisbursed principal balance shall be deemed to be the principal amount being prepaid;
  - the "remaining period to maturity" shall be deemed to be the period until the maturity date of the Series A-1 Bond or the Series A-2 Bond, as the case may be;
  - the Initial Prepayment Reference Rate shall be as set forth in Exhibit 1; and
  - the Final Prepayment Reference Rate shall be the prepayment reference rate in effect on the Expiration Date for a maturity equivalent to the remaining period to maturity of the Series A-1 Bond or the Series A-2 Bond, as the case may be.

Dated April 2, 1997.

**BANK OF AMERICA NATIONAL TRUST AND  
SAVINGS ASSOCIATION, DOING BUSINESS  
AS SEAFIRST BANK**

**KING COUNTY, WASHINGTON**

By: \_\_\_\_\_  
Kerrin Gibbons, Vice President

By: \_\_\_\_\_  
Brad Duerr, Finance Director



If the principal balance of the Bond is prepaid in whole or in part, whether by voluntary prepayment, operation of law, acceleration or otherwise, a prepayment fee, in addition to any interest earned, will be immediately payable to the holder of the Bond.

The amount of the prepayment fee depends on the following:

- (1) The amount by which interest reference rates as defined below have changed between the time the loan is prepaid and the time the loan was made.
- (2) A prepayment fee factor (see "Prepayment Fee Factor Schedule" on reverse).
- (3) The amount of principal prepaid.

#### Definition of Prepayment Reference Rate

The "Prepayment Reference Rate" used to represent interest rate levels on fixed rate loans shall be the bond equivalent yield of the average U.S. Treasury rate having maturities equivalent to the remaining period to maturity of this loan rounded upward to the nearest month. The "Initial Prepayment Reference Rate" shall be the Prepayment Reference Rate at the time the loan was made. The "Final Prepayment Reference Rate" shall be the Prepayment Reference Rate at time of prepayment.

The Prepayment Reference Rate shall be interpolated from the yields as displayed on Page 119 of the Dow Jones Telerate Service (or such other page or service as may replace that page or service for the purpose of displaying rates comparable to said U.S. Treasury rates) on the day the loan was made (Initial Prepayment Reference Rate) or the day of prepayment (Final Prepayment Reference Rate).

An Initial Prepayment Reference Rate of 6.51 % has been assigned to this loan to represent interest rate levels at origination.

#### CALCULATION OF PREPAYMENT FEE

If the Initial Prepayment Reference Rate is less than or equal to the Final Prepayment Reference Rate, there is no prepayment fee.

If the Initial Prepayment Reference Rate is greater than the Final Prepayment Reference Rate, the prepayment fee shall be equal to the difference between the Initial and Final Prepayment Reference Rates (expressed as a decimal), multiplied by the appropriate factor from the Prepayment Fee Factor Schedule, multiplied by the principal amount of the loan being prepaid.

#### PREPAYMENT FEE FACTOR SCHEDULE

Proportion of Remaining Principal Amount Being Prepaid	Months Remaining To Maturity <sup>1</sup>												
	0	3	6	9	12	24	36	48	60	84	120	240	360
90-100%	0	.21	.36	.52	.67	1.3	1.9	2.5	3.1	4.3	5.9	10.3	13.1
60-89%	0	.24	.44	.63	.83	1.6	2.4	3.1	3.9	5.4	7.5	13.2	17.0
30-59%	0	.28	.53	.78	1.02	2.0	3.0	4.0	5.0	7.0	9.9	18.5	24.4
0-29%	0	.31	.63	.92	1.22	2.4	3.7	5.0	6.3	9.0	13.4	28.3	41.8

<sup>1</sup> For the remaining period to maturity between any two maturities shown in the above schedules, interpolate between the corresponding factors to the closest month.

The holder of the Bond is not required to actually reinvest the prepaid principal in any U.S. Government Treasury Obligations, or otherwise prove its actual loss, as a condition to receiving a prepayment fee as calculated above.



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 Debt Service Schedule  
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Date	Principal	Coupon	Interest	Period Total	Fiscal Total
12/ 1/97	6,395,000.00	5.750000	326,312.50	6,721,312.50	6,721,312.50
6/ 1/98			74,893.75	74,893.75	
12/ 1/98	2,290,000.00	5.750000	74,893.75	2,364,893.75	2,439,787.50
6/ 1/99			9,056.25	9,056.25	
12/ 1/99	315,000.00	5.750000	9,056.25	324,056.25	333,112.50
	9,000,000.00		494,212.50	9,494,212.50	
ACCRUED	9,000,000.00		494,212.50	9,494,212.50	

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Dated 4/14/97 with Delivery of 4/14/97  
 Bond Years 8,595.000  
 Average Coupon 5.750000  
 Average Life 0.955000  
 N I C % 5.750000 % Using 100.0000000  
 T I C % 5.735691 % From Delivery Date  
 Arbitrage Yield 5.735691 %

Seafirst Bank-Municipal Finance

Micro-Muni Debt Date: 04-01-1997 @ 16:20:42 Filename: KING COUNTY Key: 9MM/97





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 Debt Service Schedule  
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Date	Principal	Coupon	Interest	Period Total	Fiscal Total
12/ 1/97	385,000.00	7.220000	45,526.11	430,526.11	430,526.11
6/ 1/98			22,201.50	22,201.50	
12/ 1/98	295,000.00	7.220000	22,201.50	317,201.50	339,403.00
6/ 1/99			11,552.00	11,552.00	
12/ 1/99	320,000.00	7.220000	11,552.00	331,552.00	343,104.00
	1,000,000.00		113,033.11	1,113,033.11	
ACCRUED	1,000,000.00		113,033.11	1,113,033.11	

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Dated 4/14/97 with Delivery of 4/14/97  
 Bond Years 1.565.556  
 Average Coupon 7.220000  
 Average Life 1.565556  
 N I C % 7.220000 % Using 100.0000000  
 T I C % 7.205844 % From Delivery Date  
 Arbitrage Yield 7.205844 %

Seafirst Bank-Municipal Finance

Micro-Muni Debt Date: 04-01-1997 @ 11:24:18 Filename: KING COUNTY Key: